

HINDU SOCIETY.

BY

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CALCUTTA :

Published by Gurudas Chatterji

No. 201, CORNWALLIS STREET.

1902.

**PRINTED BY N. L. SEAL & SONS, AT THE SEAL PRESS,
NO. 2, HARI PAL'S LANE.**

DEDICATED

TO

SIR ALEXANDER MACKENZIE, K C S I.,

Late Lieutenant-Governor of Bengal,

**By permission kindly accorded to the son of an
old and faithful servant of Government—**

The Author

PREFACE.

THE object of reprinting the following articles is to place before the public in a collected form important social questions in the light in which Hindus of the present day should look at them. The frequent references to the original authorities are intended to show the sources of information with a view to allay doubt or dispute. It is only hoped that a perusal of the following pages will create in the general reader an interest in the past history and the present state of Hindu Society, and in the Hindu in particular a desire to improve it by individual or united action.

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THE determination of the question, who are the Hindus, is not in these days, unlike the case in old times, possible by any territorial demarcation, although in certain respects it may serve as an indication as to when one may cease to be a Hindu. The strength, however, of the usage of the implied renunciation or virtual deprivation of the original status of a Hindu by journey into countries or voyage over waters beyond certain limits, is popularly derived from religion. It is not the force of law. A person, born of parents professing the Hindu religion within the boundaries of Bharatvarsa, is under all circumstances a Hindu; whereas one may not be a European British subject, let him be of the most orthodox class of Christians, and live in Great Britain or her colonies. Similarly, on the other hand, a European British subject will not lose his status as such by simply exercising his rights of personal liberty, by going beyond the precincts of the British dominions; whereas the moment a Hindu takes only one step towards forbidden ground, his garb of rights falls off and he appears on his return in the fabric which the Indian legislature has woven for those who are not

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Hindus, Buddhists or Muhammadans. Allegiance, in the second place, which is an important principle in the jurisprudence of countries wherein remnants of the old feudal system are yet perceptible, and is not overlooked in Muhammadan law, even, differing though it does so widely from that of European countries, generally gives no rule of law to the Hindu, who is under the present regime as much at liberty to enjoy his legal rights as he had been for five centuries during the Muhammadan ascendancy, and before it from time immemorial. The law to which he is subject is personal law, which notwithstanding its birth from the Sastras and nourishment by custom, is not anomalous and uncertain, although it is in various and in many points difficult of correct and uniform exposition. The Sastras however lay down the rules which, in countries in which the Roman Civil Law first suggested the probable distinction between the *vinculum juris* and *vinculum pudoris* and caused the separation of precepts which are commands of the sovereign body of a political society from those adopted and followed owing to the belief in their revealed origin, and which influence the conduct of men in virtue and vice, are distinguished from law. In Bharatvarsa the Sastras had, except in very recent times, legal effect, and upon that vast multitude of men to whom they apply. That effect moreover was so rigid that, in spite of the transformation of old Bharatvarsa

into modern India, and the innumerable political and social changes which have brought about the present state of things,—in spite of the language itself in which they are composed having fallen into disuse and being nearly extinct of all its life,—in spite of their being of non-proselytising principles, and therefore incapable of spread and increase—in spite of that most prominent fact of the people following them being themselves void of animation to defend themselves against encroachments upon their creed and party, and committing on the other hand acts or omissions, which are by no means in consonance with their doctrines,—the British Parliament by an Act of 1871, wisely permitted them to be used in the Indian Courts of justice, in cases in which the rights and duties of Hindus might be adjudged. The Courts therefore, both those that have been established by Royal charter, and those that are known as the Company's Courts, have since passed their decisions in conformity with the directions and precepts of the Sastras. This course of proceeding was first begun with the assistance of Pundits versed in the Hindu law of all the five schools—Bengal, Benares, Mithila, Maharashtra and Dravira—and authoritative translations into English of works on Hindu law—Dayabhaga Mitakshara, Vyavahara Mayukha &c.—and now continues with this difference that the opinions of Pundits are not ordinarily taken as evidence of the law. This is indeed an important step towards that

uniformity of law and procedure which the Indian legislature has in view. Hindu law is now adjudicated upon by the courts in the same way as other laws, and therefore the courts stand in the position not of foreign courts administering the law, but of those of the land itself dealing with a law with which each judge is supposed to be as well conversant as any orthodox Bhattacharjya Pundit. The Hindu law of the courts, with such alterations as have been introduced into it—which, by the way, are theoretically supposed not to change its nature—is at present the law of the Hindus. The Hindus therefore, are people who by their religious rites and observances and submission to ancient customs, are found to be those to whom the Hindu law of the courts applies.

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CASTE.

The effect of caste distinction on Hindu society, founded as it is on a religious basis, is not less evident and binding than that of the religion itself. It is not so in any other community on the face of the earth. In ancient times if a patrician hesitated to dine or enter into a matrimonial connection with a plebeian, or if a lord would not similarly come into close familiarity with his squire, the reason was quite different from what a Hindu would assign for similar conduct towards a Mlechha, or a Hindu even of a position lower than his. The patrician or the lord did not stand in fear of affecting his salvation hereafter, or of any diminution of the bliss, which on the ground of piety he could expect to enjoy in the existence beyond the grave. But a Brahman would not condescend for aught invaluable here, to bestow his daughter upon a person belonging to any other caste, as that would cause him to lose the opportunity he had of ascending heaven :*

* *Brahmyenata vivanena yastu kanyam prayachchhati.*

Brahmalokam brajechchigram Brahmadwai pujita surais.

“ ”

Bahni Puranam.

“He who marries his daughter according to Brahma rites being respected by the gods, soon arrives at heaven.”

and the offspring is declared to be a Chandala* if the mother belongs to the Brahman class, and the father is a Sudra.†

All the different works composing the Sastras are at one in asserting that the origin of the distinction of caste in Hindu society is to be looked for in the circumstances leading to the creation of the race of man, and the natural division of them into separate classes or professions.

Satyabhidhyainas purvam sisrikho brahmano jagat.

Ajayanta dwijasreshtha sattwodriktanmukhat prajas.

Bakkhaso rajasodrikta stathabai brahmanobhabau.

Rajasa tamasa chaiba samudriktastatho rujas.

Padbhyamanyas praja Brahma sasarija dwijastthama.

Tamas pradhanastas sarbbachaturbarnamidam tatas.

The substance of these sentences, quoted from the 6th Chapter of the *Vishnupurana*, is that, in the beginning Brahma, having intended to create the world men in whom the first property of humanity predominated, issued forth from his mouth; men possessing the

* Chandala swapahcanantu bahirgramat pratisrayas.

Apapatrascha kartabya dhanamesham swa gardhabham.

* * * *

Badhyanscha hanyus satatum yatha sastraṁ nripajnaya.

Badhyabansi grihneyus sayyaschavarahani cha.

Manu.

N. B.—It does not seem necessary to render the above *shloka*s into English: but it will be enough to say that the *chandala* is the meanest individual in Hindu society.

† Syadhichandalastu janito brahmanyam brishalena yas.

Amar.

second of such properties, from his breast ; men characterized by both the second and third from his thighs ; and all others having the third only from his feet.* The distinction of the four *varnas*† has therefore existed from the earliest times although in the Satya Yuga the caste system of the present time did not at all occur. The idea seems to be to represent the creator in the absence of a knowledge of a better in a human form, the different parts being indicative of the predominating qualities found in men. Brahma thus metaphorically would be the sum total of humanity, and mankind would form into different classes according to the degree and quality of the manifestations of the same.

The following lines are taken from the *Mahabharat* :

Kamabhogapriasteekshnas krodhanna priyasahas.

Tyaktaswadharma raktangaste dwijas ksathrangatas.

* * * *

Ityeto chrtaro varna yesham brahmaco saraswatce,

Bihita Brahmana purvam lobhat twajnanatam gatas.

* The following passage from *Sruti* is of the same purport.

Brahmanosya mukhamaseed valurajonyas kritis.

Urnjadasya tadbhāsyas paṭibhyamsudrōbhyajata.

† The four *varnas* are Brahman, Kshatriya, Vaishya, Sudra.

The original distinction between them was according to the predominance of the *gunas* (properties of humanity, as Wilson explains the term), which are 1, सत्त्व (Sattva)—of which gravity, patience, wisdom &c., may be examples—2, रजस् (Raja)—of which anger may be an example, which is much inferior to the first class—3, तमस् (Tama) of which vanity and ignorance, may be examples, which are inferior to the second.

"Indeed there is no difference between the three properties of humanity. The world itself is pervaded by the spirit of God. After their first origin from Brahma Brahmins have come under different classes according to the nature of their acts. Those Dwijas who, being subject to the influence of the second property of humanity, are lusty, irritable, vigorous, or passionate and have therefore abandoned their own proper sphere of actions, have degraded themselves to the position of the Kshatriyas. Those have become Vaisyas who, on account of the predominance of the second and third properties in them, have betaken themselves to the profession of shepherds and husbandmen. Those that, under the domination of the third property of humanity, have become envious, desirous of gain, dependent upon labour for subsistence, disinclined to cleanly performances, and addicted to lying, have come under the class of Sudras. Dwijas have, by such actions as aforesaid, been divided into the different classes; and consequently all classes have a right to perform religious ceremonies. Those who, in early times were endowed by Brahma with divine language, have under the effect of temptation regressed into the Sudra class."

Jatakarmadibhiryastu sanskarai sanskritas suchis.

Vedaddhayana sampannas shatsukarma vyavasthitas.

* * * * *

Sudrechettadbbhabellakshyam dwije tachcha navidyate.

Nabai sudro bhabechechhudro brahmano brahmano nacha.

The purport of the above lines is that they are Brahmans who lead a very religious life, in whom all the noble faculties of the soul are present, and who keep their mind steady in the practice of virtue; Kshatriyas they, who study the Vedas, are engaged in war, distribute presents among Brahmans, and receive taxes from the people; the Vaisyas in a condition of purity read the Vedas, and till the land; and those that do not read the Vedas, and continue in a state of impurity, and do all manner of actions and take all sorts of food, are reckoned Sudras. One born in the Brahman line, but acting like a Sudra, may properly be termed a Sudra; and a Sudra, a Brahman, who though born as such improves his position by religious austerity and purity of habits.

From the above quotations it is clear that the Satya Yuga, the epoch of virtue and universal happiness was not marked by any important distinctions affecting the status of men. Originally it would seem that all men were equal in rank, then as time proceeded and the three *gunas* produced their respective influence on individuals, they came to be distinguished according to their qualifications. Those who maintained their character of unexceptional virtue ranked as Brahmans, and so on the other classes were formed with special reference to their predominating nature.

Na bisheshosti varnanam servam brahmanam jagat.
Brahmana purusarishthi karmana varnatam gatas.

It is the peculiar constitution of the soul that leads men to distinctive action; the progenitors therefore by their acts divided themselves and ranked under different classes, and the principle of the classification, which was evolved out of this arrangement in the Treta yuga, was the employment of men for the time being. Brahmanas, Kshatriyas, Vaisyas and Sudras were the first four castes. Their occupations have already been spoken of. Intermarriage between those castes was not altogether forbidden, though marriage between persons of the same class has been extolled. The progeny in cases where the parents were of two different classes, belonged to neither. The child for instance, of a Brahman by a Vaisya woman was Ambastha, and that of a Vaisya by a Brahman woman Vaidiha.* Thus the combination of the four principal classes would produce sixteen, and the combination of the latter ones would shew a very large number. Marriages on the inverse order of the tribes that is between females of the higher and males of the lower classes, have, however, been always spoken of with contempt. *Manu Sanhita* and the *Vrihadharma Purana* are the main authorities that speak of the races.

It appears from the above considerations that the parentage of the offspring determined his caste. This system, which is indeed a far more advanced one than

* *Mahabharat*, *Anusasana-parva* ch. 47.

the distinction of caste by occupation simply, prevailed beyond doubt before the time of Yudhishtir, and consequently during the first half of the Dwapara and probably about the latter part of the Treta Yuga.

The Rev. Mr. Sherring in the introduction to his *Hindu Tribes and Castes*, has the following passages indicative of the exceptional ways in which certain castes first had their origin:—"Many castes," says he, "were also created by persons driven from their own tribes through the infraction or non-performance of caste rules. Sons born of Brahmana parents, failing to perform the assigned ceremonies on being invested with the Brahmanical cord, or in any other ways breaking the rules of their order, became outcastes, were debarred from the privilege of the *gayatri*, and were styled *Pratyas*. From them sprang castes designated Bhurjakantaka, Avantya, Vataadhana, Pushpadha and Saikha.* Similarly outcastes from the Kshatriya tribe founded the following castes: Iballa, Malla, Nichchin: Nata, Karana, Khasa, and Dravira.† From outcastes, of the Vaisya tribe sprang the Sudhadwana Charya Karusha, Vijauman, Maitra and Satwata castes."‡

Inattention to religious duties, or neglect of Brahmins, was evidently, in those days of punctilious

* *Mann*, ch. x., 20, 21.

† *Mann*, ch. x. 22.

‡ *Ibid*, 23.

observances and priestly domination, sufficient reason for expulsion from caste. No fewer than twelve castes are stated by Mānu to have owed their origin to persons ejected from the Kshatriya tribe alone, for the reasons just given. They are as follows: Paundrak, Udra, Dravira, Kamboja, Yavana, Saka Parada, Pahlana China, Kerata, Derada, and Khaso.*

It is not intended to enter into a full disquisition upon the nature and origin of caste. All that is necessary is a general view of the circumstances under which the Sastras describe that distinction to have commenced, and to have been developed. To explain however the present feature of caste distinctions in Hindu society, the following passage from the work of the Reverend gentleman quoted above, may be found pertinent. "It is absolutely impossible for the pure castes to intermarry with the mixed, or for the mixed to intermarry with one another. No one ever hears of a Brahman marrying a Vaisya, much less a Sudra, or of a Kshatriya marrying a Vaisya, or of a Vaisya marrying a Sudra, or even of one Sudra caste intermarrying with another Sudra caste; yet all such intermarriages were allowed in early Hindu times. But the peculiarity becomes more striking when we look into the constitution of the separate castes. Each caste contains usually

* Mānu, ch. x. 43, 44.

several, sometimes many, sub-divisions or sub-castes. For example, the Kayastha or writer caste, in the North-Western Provinces has twelve sub-divisions. These can not eat rice together, nor can they intermarry except with the first of the twelve." What is stated to be true of the North-Western Provinces is true also of Bengal; not that there are exactly twelve sub-divisions of the Kayastha class, but that marriage and mess form the principal points in all caste questions. It does not appear at the same time, that the different classes have changed their character very considerably. The prohibition is decisive, that is contained in some of the *slokas*, the drift of which is that males of the first three classes are forbidden to marry females inferior to themselves in respect of caste; and in favour of that verdict also, often repeated in the Sastras, that marriage between males of any lower and females of any higher class is reprehensible. Thus at the transition period between Dwapara and Kali the then-existing castes became stereotyped, so to say, in Hindu society; but for which, by continuous multiplication of the mixed castes, even the original distinction between Brahmans, Kshatriyas, Vaisyas, and Sudras, not to speak of the absolute confusion of the others, would, for want of purity of descent, but scarcely appear, or at all events, inconvenience the relations of men.

The Hindu religion and caste may generally be

said to be co-existing. The former however is so wide that the latter is quite merged into it, and derives from it an indelibility which all the strength of English education can not efface. Both have fluctuated in the same proportion, and it would be seen below what fatal changes have been wrought in them. Here a short examination into the nature of the forfeitures threatened by religious authors, for all breaches of the rules of caste, may properly be made, and it is no wonder that the Sastras would be particular in that respect, when the distinction of the several classes has been so much insisted upon. The imprecations pronounced on offenders against religion and caste, deserve no mention ; attention may therefore be confined to the civil disabilities to which such persons are made subject. The following *sloka* is taken from Manu, chapter IX.,

Ānamsaukleebapatitau jatyandhabadhirau tatha.
Unmattajaramukascha je cha kechinnirindriyas.

It has been rendered by Colebrooke into English thus. "Impotent persons and outcastes are excluded from a share of the heritage, and so are persons born blind and deaf ; as well as madmen, idiots, the dumb, and those who have lost a sense [or a limb]." Yajnyawalkya too, says that "an impotent person, an outcaste, and his issue, 'one lame, a madman, an idiot, a blind man, and a person afflicted with an incurable disease, as well as others (similarly disqualified) must be main-

tained, excluding them, however, from participation;”* to which the author of the Mitakshara,† adds that, “the masculine gender” is not here used restrictively, in speaking of an outcaste and the rest; females therefore are included. But the rigour of the law does not end here. Commenting on the above passage from Yajnyawalkya, and speaking of the disqualified persons, Jimutavahana, the author of the Dayabhaga says that, “although they be excluded from participation, they ought to be maintained, excepting however the outcast and his sons. That is taught by Devala; when the father is dead as well as in his life time an impotent man, a leper, a madman, an idiot, a blind man, an outcaste, the offspring of an outcaste, and a person wearing the token of religious mendicancy, are incompetent to share the heritage. Food and raiment should be given to them, excepting the outcaste.” The same learned professor continues that “by the term outcaste, his son also is intended,” and cites Budhayana as an authority. On the subject of exclusion, Narada also says that, “an enemy to his father, an outcaste, an impotent person, and one who is addicted to vice, or has been expelled from society, take no shares of the inheritance even though they be legitimate: much less if they be sons of the wife by an appointed kinsman.”‡ Now to descend from the General to the particular for an

* Yajnyawalkya I. 146.

† Narada 13, 11.

example : Cātyayana says that, "the son of a woman married in irregular order, and begotten on her by a kinsman, is unworthy of the inheritance; and so is an apostate from a religious order"; and goes on, "but the son of a woman married in irregular order may be heir provided he belong to the same tribe with his father, and so may the son of a man belonging to a different (but superior) tribe, by a woman espoused in the regular gradation. The son of a woman married to a man of inferior tribe, is not heir to the estate." It requires no lengthy sorites to shew from the above quotations that offences not expiated against religion and caste were punished with exclusion from inheritance. One thing, however, is not clear. The difference between the legal rights of the son of parents of the same class, and of the son of father of one, and mother of a lower class, has not been shewn; on that point the following *śloka* from Manu will throw much light : —

Tryansam dayadharedbipras dwavamsan kshatrida sutas.

Vaisyajas sardhamekamsamnsam sudrasuto haret.

Manu 9, 151. -

"Let the venerable son take three shares of the heritage and the sons of the Kshatriya wife two shares; the sons of the Vaisya wife a share and a half, and the son of the Sudra wife may take a share."

After the first recognition of the Sastras by the King and Parliament, the Governor General in Council as early as the year 1793, passed a Regulation, IV. of the year, the 15th section of which runs as follows :—"In suits regarding succession inheritance, marriage, and caste, and all religious usages and institutions, the Muhammadan laws with respect to Mahammadans, and the Hindu laws with respect to Hindus, are to be considered as the general rules by which the judges are to form their decisions."

The above passage, authoritative as it was, with similar enactments for other parts of the company's territories made the observance of the law of Hindu religion and caste indispensable in the Courts of Bengal. Accordingly, there is a decision reported of the Sudder Court, of date as far back as the 17th March, 1814, which is to the following effect ; that offences involving final exclusion from tribe (caste) are considered to be perpetual impediment to hereditary succession according to Hindu law : Sheonath Rai *versus* Mussumut Dayamayee Chowdharin. Although there is no need of multiplying quotations from old decisions, still reference may perhaps be conveniently made to another, in which the question as to the right of the illegitimate son of a Rajpoot, or any of the three superior tribes, by a woman of the Sudra or other inferior caste, to in-

heritance, was denied. That case was that of Pershand Singh *versus* Ranee Mohegwaree, decided on the 17th December, 1821.

Thus down to the year 1832, the Hindu law of the Sastras was strictly enforced by both legislative enactments and judiciary decisions, until on the 16th of October of that year, a Regulation was passed, No. VII of 1802, Bengal code, of which although the 8th section confirms the long observed law of the Sastras, by directing that their precepts shall be the rule of guidance in all suits regarding succession, inheritance, marriage and caste, and all religious usages and institutions, that may arise between persons professing to be of the Hindu persuasion; the 9th runs as follows:—"whenever therefore in any civil suit, the parties to such suit may be of different persuasions, when one party shall be of the Hindu, and the other of the Muham-
madan persuasion, or where one or more of the parties to the suit shall not be either of the Muhammadan or Hindu persuasion, the laws of those religions shall not be permitted to operate to deprive such party or parties of any property to which, but for the operation of such laws, they would have been entitled. In all such cases the decisions shall be governed by the principles of justice, equity and good conscience it being clearly understood however that this provision shall not be considered as justifying the introduction

of the English or any foreign law, or the application to such cases of any rules not sanctioned by those principles." One cannot but admire the wise principle embodied in the construction of the above passage. It is beyond doubt evident that the intention of the legislature has been expressed in the last sentence, which makes provision by the principles of "justice, equity and good conscience" for the absence of any law in cases in which the parties being of different persuasions, the rules of exclusion to which either of them may by his religion be subject, become inoperative. This is however the introduction into the block of the thin end of the wedge. Selfishness being the pole star in the firmament of human affairs, and having ordinarily more preponderating influence than reason, no Hindu could be expected to object to any law by which as against individuals of different persuasions, the unpleasant rules of exclusion of his own creed, were rendered ineffective. A Hindu would dance for joy at the thought that a Muhammadan could not under any circumstances deprive him of his rights. The keen sighted legislator thus won his aim, and succeeded in his first and therefore the most difficult sally with the greatest ease, in conquering the territories of Hindu law and mythology.

The section quoted above of Regulation VII of 1832, proposes in the absence of any law in a case

where a Hindu cannot be divested of his rights by the operation of the same section, "justice, equity and good conscience" to be the source of the law. Interference with the precepts of Hindu religious law once established against the imputation of officiousness and obstinacy in the judges, justice, equity, and good conscience were admitted into the province of that law, and power too of introducing order and necessary changes—and what changes could be deemed monstrous or incoherent by an English judge imbued in maxims of common or civil law—into the hopelessly chaotic state of the rights of any person, which his religion denied him, but the legislature would fain protect. The matter stands thus: the legislature itself creates the confusion and suggests that the judge may act according to "justice, equity and good conscience," in remedying it; in other words the judge is, ostensibly for the benefit of the Hindus themselves, given the liberty of engrafting upon their law any new principles, which to him may seem sound and proper.* The indirect power of legislation thus given to the judge, was however, limited to cases in which both parties were

*In confirmation of the above remark is the following quotation from the report of Mr. Hobhouse's speech on the occasion of introducing his law Reporting Bill:—

"In the large number of cases for which no specific law is to be found in the Indian Statute Book, the Courts have to decide

not Hindus.* No important decisions illustrative of the point are found subsequent to the passing of the regulation under consideration and prior to the date of Act XXI of 1850, which extended the principle of section 9 quoted above of regulation VII of 1832 of the Bengal code, throughout the territories subject to the Government of the East India Company. Section 1 of that Act—and it has but one section—reads as follows :

“So much of any law or usage now in force within the territories subject to the Government of the East India Company as inflicts on any person forfeiture of rights of property, or may be held in any way to impair or affect any right of inheritance by reason of his or her renouncing, or having been excluded from the communion of any religion, or

according to the law of justice equity, and good conscience, and in other cases they have to decide according either to Hindu or Muhammadan law. The law of justice, equity and good conscience means in practice the judge's conceptions of English law in so far as they regard it as suitable to the circumstances of India though particular judges, who may have studied, or have a special taste for Roman law in its older or more modern forms, will occasionally take it as their guide. All of them, of course, listen in all cases to English authorities, and they consider themselves bound by the decisions of their predecessors.”

The Honorable member himself took the passage from a minute written by his predecessor Mr. Fitz James Stephen.

being deprived of caste, shall cease to be enforced as law in the Courts of the East India Company, and in the Courts established by Royal Charter within the said territories." Accordingly we see it decided in *Parbutty vs. Bhiku and Doed** that although a widow may have been incontinent, and may consequently have been expelled from caste, she will not on these grounds, be disqualified to obtain a partition in her favour of her deceased husband's property. In that well known case also of *Matanginee Dabee v Joykali Dabee*, reported in 5 B. L. R., page 493, Mr. Peacock C. J., judicially expressed an opinion that whereas Regulation VII of 1832 was limited in its operation to the cases of persons of different persuasions, the Act, XXI of 1850, applied to those of the same persuasion, the consequence of which is that all rules enforcing deprivation of rights by renunciation of religion or loss of caste, were virtually repealed. In *Karúthedatta v. Mele pullkatt Vassa Devan Namboodra*, *Indian Jurist* page 236, the High Court of Madras held that since Act XXI of 1850, exclusion from caste did not operate "to deprive a Hindu of his rights to hold, deal with, and inherit his property."

It has been proved that the rules of exclusion from inheritance or foreclosure of rights by reason of

*4 B. E. A. C. J. P. 30; *Sammonce Dossee vs. Nemye Charn Dass*, 2 Taylor and Bell, p 300; *Rajkoonworee Dassie v. Golabee Dassie*, 14 S. D. A. 1858 p 1895.

renunciation of religion or loss of caste, have been annulled. A Hindu, therefore, in these days since 1850, may contract marriage, mess in violation of his caste rules, abandon his creed, or do any other such act without any sort of legal infliction, provided that he be born a Hindu and his rights become vested in him. A son may not perform his father's Sraddha, and thereby may be liable to suffer all the torments which the Sastras so distinctively describe, yet the courts of law will not—or cannot—declare him disentitled to his paternal estate. But the legislature and the bench have not yet conferred equal privileges on the delinquent, and his sons, or those who claim under them, The son or one in his position cannot claim under the Hindu law; still the effect of the Act of 1850, has been ruinous to the old form of Hindu society. Instances are too common of English repasts and bacchanalian refreshments; not rare also of Brahmans of the priestly order coming out of jail and hurling defiance at the frowning face of religious authority, and not performing the prescribed expiatory rites.

It is indeed too bold an hyperbole to assert that English education and foreign civilization have exercised no influence in the way under contemplation. They are still but adjective causes, which would produce no material changes in Hindu society without the removal of the sanction old Hindu law held in *terrorem* for all disobedience of its precepts. In the fulness of time this was brought

about by a legislative enactment, substantive in its nature, and effective to such a degree as it causes gradual disappearance of Hinduism quietly and imperceptibly with the progress of time.

II.

Groups—their formation and constitution.

IN our foregoing article, we considered at some length one of the chief peculiarities of Hindu society. The system of caste distinction makes a very general classification. Thereby we come to groups widely separated from one another in customs, habits and pursuits. No supposition, however, of long distances for their location is warrantable. That would in fact be an absurdity—it being evident what assistance a man requires from the world every hour of his existence. At a time particularly when one's caste would give one occupation, there would be no living without it—nor with it and alone, or together only with one's own class. A Brahman would want his sumptuous feasts and rich presents; a Kshatriya would wax away to his own shade for lack of proper work; a Vaisya would have a hard case after all; and a Sudra would repine for fear of certain torture hereafter, consequent upon not having his idols worshipped, and not supplying Brahmans with all things desirable on earth. From this view of the case, it can certainly be perceived that

men of all castes would be, by their wants and fears, led to combine themselves into bodies, and would occupy parts of the land most convenient for themselves, thus forming what is called marks of township.

We have, under the heading of caste, observed that according to the Shastras there was a long interval between the creation of man, and the division of men into castes according to their occupations. To suppose then that different castes are first settling together in one place, is to suppose a fact occurring long posterior to the creation, and not anterior to the distinction of the mixed castes. The greatest part, if not the whole of this space is occupied by what is called the Satya Yuga. That is the earliest epoch. Men lived at that time any-where they liked in forests or valleys.* The Shastras describe with approbation the exalted morals and religious conceptions of that pristine age. The Christian Scriptures do no less, although there is a great difference as to the number and sort of people that inhabited the earth. The mythologies of old Greece and Rome concurred. It is evident, therefore, that either the accounts, differing no matter how widely from one another, must have had a common

* Jathechchabas niratas sarvabadha vivarjitaa,
Suddhantakaranas sudhas sarvanusthana nirmalaa,
Jathechchabas niratas—Jathechchaya bhavas girikandaradi
sthanam tashin niratas, '

basis of fact, or they must be susceptible of scientific explanation from the condition, thoughts, and pursuits of the persons who have left the chronicles, and inferentially of those of whom they speak.

We can understand that in the Satya Yuga, when no sort of property existed, there would be no occasion for robbery, and similarly for other crimes. As years rolled on and people multiplied,* their wants increased, the desire for satisfaction whereof natural to all creatures, suggested, and in extreme cases, even necessitated quarrel, and then decision as usual among uncivilized men, by measure of physical strength, first by single individuals, and subsequently by rallied numbers. In the Treta Yuga, therefore, safety to life and property, became an important necessity.* Places of strength were prepared, surrounded by fences or walls of wood, or rock; or tracts of land were intrenched about or fortified with brick enclosures, wherein towns or villages grew up. In course of time the people thus living together, in order to protect themselves from thieves, built suitable houses. After all this had been done, they adopted agriculture for their livelihood which would be performed by simple labour.

* Tato durgani taschakurbakasam parbettamaudakam.

Kritrimancha tatha durgam puram kharbbatakadikam.

Bishnupurana, 6, ch. 18.

Tatas chauradivaya pariharartham durgani chakrurityaha.

Sreedharawami kritatika.

There is clear proof in the *Vishnupurana* of the distinction of caste having begun after the settlement of the people as above described. 'That distinction, too, was according to occupation. Should we therefore be very wrong in saying that, the literal explanation' of the theory about the active interference of Brahma in the distinction of caste, should be accepted, in a modified form in view of the succession of events and human and natural probabilities? That distinction, in being assimilated with mythology, was over-done by the learned. All the educated men of the period under examination were Brahmins, and as it was to the interest of that aristocracy to define their class, caste followed as a matter of course.

We are aware that we have past over a very contested part of general jurisprudence. We have of course taken the Hindu Shastras as our authority; but we hope we have not gone at an angle with truth, or over-stepped the limits of reasonable probability. The Roman jurists explained away the difficulty by calling the pre-social state of mankind the state of nature, in which uniformity was the principle of the law, which we read and talk of as the law of nature. The same sort of evasion was attempted by most early writers on primitive society, and the origin of law. Locke even smacked of the contagion. Hobbes repudiated his theory of the origin of law

in a social compact, although he too has not brought to light facts or arguments sufficiently historic or verifiable to be worthy of reliance. Montesquieu would not acknowledge the least stability in the nature of man in the primitive age and apparently attributes the origin of law to the influence of "climate, local situation, accident or imposture" It would be too presumptuous for us to say that any one of the above named philosophers is wrong; but we cannot but take the liberty of differing from them. Bentham's doctrine of expediency does not remove the hitch, although nothing can be plainer than that the laws of any particular community must alter with its requirements. Blackstone assigns the origin of society to "contract." But the argument against this theory is too palpable to require a fuller explication than the hint that a "contract," before the idea itself has germinated in the bare minds of the people, is impossible. The right to rule, and consequently the institution of society, depended on superior protection granted, and the greatest good done to the greatest number. People would naturally seek protection; the strong therefore, and those capable of granting that boon, would become the sovereign, or leader, or guardian, and those under them would by and by come into mutual relations. Blackstone's theory applies to later times, when the sentiments of the people must have to some degree been developed. On the change from promiscuous

multitudes to arranged groups having been erected, the sovereign power vested in the king, whose functions however according to the Sastras, were, notwithstanding his will being law, nominally circumscribed by the authority of the priest, who was reputed to possess all knowledge of the revealed law, and gained the ascendant in legislation. The priests were the ministers, and officers of the king's courts propounding the law. Their power after all was due to the king's sufferance, and though the Brahmins would pronounce curses on him and foretell no end of infernal torments, in the event of his violation of their commands, still beyond that they had no means to adopt. Virtually, therefore, the king was the supreme head.

We have arrived at a stage of civilization of the Hindus where the Institutes of Manu would be of great service to us. That code teems with intrinsic evidence that tends to prove the advanced condition of the time when it first came into operation. Bhri-gu—for he is the compiler of the work which passes by the name of Manu—speaking of the duties of the king, says,* “from those, who know the three Vedas, let him learn the triple doctrine comprised in them together with the primeval science of criminal

* Traividhebhystryeem vidam dandaneeṣincha aswatam.

Anweesikeenechatma vidyan bartarambhamscha lokatay.

Manu, ch. 7, 43.

justice and sound policy, the system of logic and metaphysics and sublime theological truth; from the people he must learn the theory of agriculture, commerce, and other practical arts." The august character and dignity of the king, is thus represented;—"A king even though a child must not be treated lightly, from an idea that he is a mere mortal; no, he is a powerful divinity, who appears in human shape;"*—and further on;—"He, surely must be the perfect essence of majesty by whose favor abundance rises on her lotus, in whose anger death. He who shews hatred of the king, through delusion of mind, will certainly perish." Upon a different point of the same subject, the following quotations may be properly made;—"Since if the world had no king, it would quake on all sides through fear, the ruler of this universe, therefore, created a king for the maintenance of this system, both religious and civil;"†—"Let the king prepare a just compensation for the good, and a just punishment for the bad; the rule of strict justice let him never transgress.‡" It appears then that the king, who by the way, derived his

* Balyopi nabamantabyamanushyaiti bhoomipaa.

Manatee devata hyyesha navarupena tishthati.

* Manu, 7 ch. 8.

† Arajakahi, lokeshin sarvatobidruite bhayat.

Rakharthamasya sarvasya rajangmasrijal prabhae.

Manu, ch. 7, 3,

‡ Manu, ch. 7, v, 13.

authority, according to the Shastras, from God, was considered as the defender of the faith, and the fountain of justice. The 32nd and 63rd Ślokas of the same chapter shew that the king had the prerogative of declaring wars, and appointing ambassadors.

Besides the Brahmans,—all of whom were priests, and presided over the spiritual interests of the people and the Kshātriyas, or the military class, to which the king invariably belonged, there were two other classes, the Vaisyas and Sudras, and in addition to them, a number of other castes with assigned occupations. These formed the bulk of the Hindus of the time that we are considering. These people lived together in cities, towns, and villages, the lower castes always having their houses in parts most distant from their centres, where the residences of the upper classes stood. In a district which contained open plains abounding in grain, and was surrounded by submissive mountaineers, foresters or other neighbours, the capital of the country was ordinarily built, having by way of a fortress, a desert more than twenty miles round it, or a fortress of earth, fortress of water or of trees, a fortress of armed men or a fortress of mountains.* In the centre of the city was raised the

* Jangalam syśyasampannamargyo prayamanabilam.

Ramyamanata samantam swabebam desamābaset.

Dhannadurgam giridūrgam ba samasritya baset puram.

Manu 7 ch. 69,70.

king's palace, "well furnished in all its parts, completely defended, habitable in every season, brilliant with white stucco, and surrounded with water and trees." We do not find in Manu descriptions, such as we should like to have, of towns and villages. With the exception of those who were skilled in any arts and who by their birth belonged to any trade or profession other than agriculture, the people were generally engaged in that occupation. There are abundant proofs to shew that the people were mostly agricultural, having flocks of goats, sheep and cows to tend, and fields to cultivate. From the chapter of the *Institutes* in which the rules of evidence and decision of civil suits and criminal prosecutions are laid down, we have culled the following:—"On all sides of a village or small town, let a space be left for pasture in breadth either four hundred cubits or three casts of a large stick, and thrice that space round a city or considerable town; within that pasture ground if cattle do any damage to grain in a field uninclosed with a hedge, the king shall not punish the herdsman; let the owner of the field enclose it with a hedge or thorny plants over which a camel could not look; and let him stop every gap through which a dog or a boar could thrust his head."* It is evident that, from the above, the inference is a logical one that towns, less or greater, were surrounded with pasture grounds

* Manu, ch. 8, 237-39,

for cattle, and fields for cultivation both which areas were considered as parts of the towns or villages.

The pasture or waste was public property open to the use of all, without any restriction about rights, except what convenience suggested. No tax was payable to the sovereign for enjoyment of the rights of common by the people. Distinct proportions of the produce or profits, are allowed however, as due to the king for his revenue. The rules for the setting of landmarks, and solution of all difficulties about boundary disputes, shew that definite portions of the arable tract were assigned to particular persons by the village headman with the sanction of the king or his minister in his absence. The village headman was an executive officer employed by the king whose principal duty was the suppression of robberies, tumults or other evils, which might arise in his district, and in case of his inability, to report the matter to the lord of the town. There were the lords of twenty towns, of a hundred towns, and of a thousand towns, exercising superior jurisdictions. The lord of one town usually received as his remuneration such food, drink, wood and other articles as by law should be given each day to the king by the inhabitants of the township. The lord of ten towns enjoyed the produce of two plough-lands, or *añ*, much ground as can be tilled with two ploughs, each drawn by six bulls; the lord of twenty that of five

plough-lands, the lord of a hundred, that of a village or small town ; the lord of a thousand that of a large town.* In addition to these civil officers, Manu has ruled that for the purpose of preserving order in his realm, a company of guards should be placed by the king commanded by a competent officer, over two three, five or a hundred districts, according to their extent.† At a time when communication was difficult between remote places, and journey over wide tracts was attended with danger of every description ; when on the other hand, the present complicated system of dispensing justice was unknown, or was not necessary, and differences might be properly reconciled by the neighbours of the contending parties ; the people would not generally travel over miles of shapeless and craggy wastes to memorialize the king in his court and the village headman who had general powers not strictly defined though, for the adjudication of disputes, was the arbitrator in ordinary matters. In intricate cases, and such especially as required local knowledge, the headman would summon the more respectable persons, or those who possessed intimate, information upon the facts in question, and give them the charge of decision. The number of men thus

* Manu, ch. 7, 115-19,

† Dwayomokrayanam punhanRama madhye suglambisathitam .

Tatha gramasatanadcha kurjyadrashtasya sammraham,

Manu, 7, 1.14

called to interfere in judicial affairs was usually four. This perhaps was the council of village elders known even to this day as the 'punchayet.' That word supposes five persons in the committee of arbitration; and we may get the necessary number by adding the village headman to the council of four.

We need not say that the point upon which we have alighted is of immense importance in the history of village communities of ancient *Aryavarta*. That importance is vastly increased when we see what bearing it has upon the facts which prompted Tacitus to write his *Germany*, and Von Maurer his *Law of the Mark and Law of the Manor*. Sir Henry Maine also, a conspicuous star on the azure expanse of jurisprudence has noticed certain features appearing to be of the archaic type in some provinces of the British Isles, which tend to further the conclusion which has already been established by proved coincidences in the land-law of a number of nations upon whose speech comparative philologists have reared up such a noble and admirable structure. We shall presently see what striking resemblance—too close to be supposed accidental—there is, between the township system, as we have described above, and the Teutonic village domain. "The ancient Teutonic cultivating community," says Sir Henry Maine, "as it existed in Germany itself appears to have been thus organized. It consisted of a number of families standing in a proprietary relation

to a district divided into three parts.* These three portions were the mark of the township or village, the common mark or waste, and the arable mark or cultivated area. The community inhabited the village, held the common mark in mixed ownership, and cultivated the arable mark in lots appropriated to the several families."* We can hardly affirm, however that the stage attained in the science of language has been arrived at in the study of village communities : and there are good reasons for this. The sources of information in the case of language are the grammar and vocabulary of different languages, which are easily procurable, and a knowledge of the same is attainable by study. In the other case, one must depend for information upon the experience and observation of others, and that again on points which no records illustrate, nor existing incidents prove ; and accuracy is to be sought for by a comparison of remnants of old forms of land tenures and the law of property, still perceptible in countries of fabled origin, and among nations deplorably bewitched by dark superstition.

We pass over the earlier Hindu period, for the Ramayan, the Mahabharat, the Bhagavat, and the Purans are sufficiently known in and out of India, so that pictures of the state of Hindu society all over the country, drawn with colors borrowed from them,

* *Village Communities* : Lect. III. p. 78.

will be considered simply useless. We pass over the Mahomedan period, an examination of which is of such consequence, as the limits of this article, and the few points, on which the present discussion turns, will unjustly circumscribe it. We descend to the time when the English laid a stable foundation for an extensive empire. The Hindus of that period were not the sole proprietors of the land, as when the sun of prosperity had brightened their horizon. They were in fact not owners, but lodgers only, not possessing any original rights over the land of Hindusthan. They boasted of what they have received from the bounty of the Mahomedan emperors; but those chiefs form an exception, who finding the imperial power on the wane, availed themselves of the opportunity to cast off their dependence. The places where the English flag was first triumphantly hoisted were Bombay, Madras and Calcutta. These were, properly speaking, military garrisons, where English law prevailed. In course of time, however, as the interior parts of Hindusthan began to be British provinces, the administration of the Presidencies of Bengal, Madras, and Bombay, assumed an improved air. Bengal in that respect was the principal of the three. It gained unprecedented importance by force of circumstances.

Under the Hindu *raj* village corporations probably existed only in name. The joint property of

the people of the village in it, and in the land adjoining it, would not certainly last long, in spite of the liberty given by the law for the partition of joint estates. •Brothers would—as it is patent they have always done—partition their joint property; or enjoy it by rotation, which is however an exceptional rule. Persons of different castes would not certainly be expected to act more in concert. Then came the Muhammadan, by right of force, or imperial grant, enjoying a great portion of the country on the aggregate. The Muhammadans generally lived apart from the Hindus. Within the locality of Hindu huts and houses, the Muhammadans would rarely build their dwelling places and *musjids*. It is evident therefore that the claims of Hindus to possess their old and inherited lands were not ignored by the Muhammadan Nababs. They would however exact revenue, which to all intents and purposes, transferred the ownership to the conqueror. The case applies equally to the English. The Hindus of course possess not a slip of land which they do not hold of the crown. *Lakhiraj* and *devatter* lands too, as well as all other rent-free tenures have been permitted by the Government to maintain their character, and for their recognition registers are kept in the collectorates under rules contained in the Regulations.

The great bulk of the people of India is composed of Hindus and Mahammadans. Among the

Hindus, the old prejudices against different castes living together (save with a little allowance) have disappeared. Their direction was changed and long the aim was against Muhammadans; with them the Hindus objected to dwell. As time carries on complications of lauded rights with the ups and downs of life, and as a consequence land belonging to members of either nation are transferred to those of the other, vicinage of Muhammadans sometimes becomes unavoidable. In large towns the fact is becoming perceptible. The cause of the absence of contiguity amongst the houses of Hindus and Muhammadans is to be sought for in the innate hatred of the major portion of Hindu families of any thing impure, of the air in which a Muhammadan breathes!—otherwise the liberal-minded would in certain places, specially in lower Bengal, rejoice in Moslem company, at the prospect of tortured hens and massacred bulls. The picture, we are afraid, is colored too deep. But of this we are sure that so long as the springs of enlightened thought are playing, and under the English Government, unsullied by the prejudices of Hindus against Muhammadans, or *vice versa*, the Hindus and Muhammadans for existing causes will no longer be enemies. As regards their attitude towards a different class of religionists, the Hindus had among themselves such scruples, as were their ancestors, to rise from the dead, they would be startled to see the ways of their erring

progeny. A Brahman is now a door-keeper; a Kayastha, a sweeper; a Savarna-varnik is a minister of state, and a Tagore is a leader of the Hindu community. A Brahmin gives a feast to absent guests, because the lower classes are sure not to be treated to a sumptuous fare, and do not think fit to attend—the Brahman is poor!—a Kaivarta has in his house chairs, tables and table-cloths,—the spoon and the fork for their smallness are an inconvenience and are dispensed with; and Brahmans and Kayasthas outbid Belial in their arguments for the levelling of all classes. We blame not the times, nor the manners either; but we are surprised to find the profession of Brahman priests is yet a sacred province. No Kayastha or Kaivarta, nor Tili, nor Tamuli, worships his idol; but all resign that charge to that inevitable dreaded being who haunts them both by eve and morn. The parallelism between profession and caste which for a long time so notably was a subject of the zealous care of the Hindu religious authorities, is given up; and instead of either of these principles of classification having any bearing on the other, for the absence of intermarriage the chances of the business would give the rank to the one, and the parentage determine the other. Accordingly the father is a carpenter by caste and profession; the son, no less a carpenter, is an influential officer under Government. This sort of disorder is general now, it will be in time universal, and we do not expect a

sudden jerk, or return to life of Brahmanic superstition from the benumbing and moral effects of western civilization.

In ancient times there was no necessity, except occasionally for military men, for separation from home—and for obvious reasons. The village communities formed all a rural population. Trade was not so brisk as now, nor were the wants of men unsupplied in their very huts. In these days, however, of mansions of Paros-marble, and conveyances of quality—such as who can describe?—of costly and unwholesome food, and gold and ruby clothing, ingeniously contrived to display the natural parts and complexion to advantage, the wants are more than Fortunatus's purse can supply. People are therefore obliged to leave their native places for the ways and means of their subsistence. Colonies from one part of the country to another are now frequent; and a redistribution of the population may, perhaps, finally be the result.

While on the subject of society, we find it impossible to avail ourselves of the second method of distribution, upon which we have dwelt at some length with reference to the more ancient times—the distribution, namely, into village groups. Nor would that be possible for another reason, for which a search may be made in the system of revenue settlement, which the provincial governments have adopted,

whereby the existence of the village communities, even such as they could be found at the time of the settlement, was not attached much importance to. In Orissa, indeed, the system is said to be *ryotwari*, but that is a weak instance. Politically the village communities have ceased to exist, and as a matter of fact they exist but in remnants. As, however, in the ashes live their wonted fire, and some glimmering is seen even when we have begun to believe in its full extinguishment, there are many villages in Bengal, and more in the North-Western parts of India which give evidence of what is indicated by corporate property in land of particular families. Ranaghat for instance is a village-town a few miles north of Calcutta on the Eastern Bengal Railway line. The inhabitants, excluding all those who are not Hindus, are of various castes. But we can safely leave out of account all those individuals or families, who have no proprietary right over the land of the town. They are laborers, capitalists, and defendant landholders. Originally the town was the Zemin-dari of a single family. That family has sent out its branches, themselves different families. All of them therefore have proprietary rights, except of course those whose shares, undivided as they are, are appropriated by some of the cognate families to their own profit may be by purchase, or gift.

We may in passing refer to that exceptional class of people, who upon certain religious grounds wholly or

partly abjure society. These men are of different persuasions, and live in different parts of India ; all diverging more or less from the established custom of the parts where, and the people among whom, they dwell. In times far back there were such odd social fractions, and such there have been in times within record. They are noticed here, as they deserve to be, for their proving to the satisfaction of their own consciences that they come under the operation of the laws by which Hindus are guided. The Vaishnavas, for instance, of Bengal, unlike what would be supposed from the name itself, are a vast multitude of persons of both sexes who are presided over by *goswamis*, and who differ in many important respects from the other Hindus of Bengal. One peculiarity of theirs is, the absolute want of caste distinction among them. Men who are Brahmaus on being initiated according to the rules of Vaishnavism have freedom to mix with other Vaishnavas, be they of how inferior birth soever, on the same level in all sorts of social relations. But, wonder of wonders, these Vaishnavas worship idols, Krishna, Durga, &c, and acknowledge the importance of caste distinction in very many ways. Although the Vaishnavas are thus materially beyond the authority of the Sastras, yet they are Hindus and their legal differences are settled in accordance with Hindu law. Not to speak of the many such classes that there are in India at the present day, we may conclude by noticing that prodigy of modern

intelligence, the Brahma Samaja. We do not mean to pass any strictures on the doctrines of the class so designated, but a brief note about their beliefs is all that is necessary. They are the members of that class of Vedantists, which was first united by Raja Ram Mohun Rayá, and is now maintained by the exertions of Maharshi Devendra Nath Tagore, his sons and others. Among them the distinction of caste does not occur, although the more principal members of that sect, in marrying their daughters, show a predilection for nobility of birth according to the rules of caste. They do not—and for that reason are more forward in reformation than the Vaishnavas—recognize the authority of the Sastras; and do not worship, or evince veneration for idols, yet they demonstrate, in their own way of course, that they do not come under the operation of any save Hindu law in matters in which the courts administer that law.

III.

THE FAMILY I.

IMMUTABILITY is less predicable of things elsewhere than of those in Hindusthan. Under the vault of heaven that place, the primæval seat of civilization, is now a catacomb where her sibylline books are preserved sealed and sacred, with the superscription of the hieroglyphics v-e-d-a-s; where in promiscuous heaps,—and scattered through the mercy of the four winds, conquest, civil disorder, maladministration, and bigotry, which had full play for centuries together, lie the bare bones of men who were skilled in the art of deciphering those mysterious characters. Embers remain still of customs, and juridical and fiscal systems, which have long died out; and although village communities of the exact nature, which modern research gives to such groups of the by-gone times, do not exist at the present day, direct evidence is not wanting to shew that with such changes as time has wrought in them, social corporations are not altogether a fact of the past. The revenue settlement of Behar brought to light many traces of corporate ownership of land; and Mr. (afterwards Sir John) Shore in his Minute says that

" the collector of Sarun quotes an instance of a village paying Rs. 600 revenue, and having 52 proprietors." The allowance of *malikana*, or a tithe of the whole resources, to landowners who are incapable of managing their land, and whose zemindary in consequence is taken under *khas* management, goes to prove the infeasible ownership of landowners, and for the matter of that, the right of Government upon the land parallel to, and not in supercession of, the right of the land-holders. It is clear then that the Government recognizes the title of the zemindars. The proposition is not a hazardous one, that the property which the zemindars claim in land, is an essential part of the system of corporate ownership, which prevailed in Hindusthan, under no name which we know of, but which Sir Henry Maine indicates by " Village Communities of India."

We have spoken of zemindars, land-holders and individuals having proprietary rights over land, and being the component parts of the village communities. The words, it must be noticed, have in India a sense in which they are not understood in other countries. True, each zemindar, or land-holder, or individual, is a unit of society ; but such units are like those of arithmetical compounds, made up of others. These latter however, are not co-existing units with the principal one, in matters in which that one is specially a unit. The individual is the head of a family. He represents in

his single person a plurality such as the sovereign body does. The interests of the family are the entire care of the head or father of the family, or if the name may in these days be used, the patriarch. That is the person whose name is used in all concerns relating to the family.

Each zemindar or land-owner is such a person in himself, and in the additional capacity of one in whom the sole power resides of disposing of all affairs in connection with the religious and temporal interests of the family under his superintendence. Property in land, however much it may be an indispensibility for making a zemindar, is not a necessary element in the connotation of *family*. The multiplicity of conditions applying to the head of a land-holding family apply equally in principle to the head of a family without such rights. The exceptional classes noticed in the last portion of the preceding chapter, supposing them not to be possessed of landed rights, in as much as they are Hindus of their own shewing with or without recognition by the great bulk of the race, come within the pale of the family system. Perhaps we are right that there is no opposition to confront us on the statement, that joint property is an accident in the joint family system, and is rather the outcome of that system than an essential characteristic of it.

Within our province there is not a better medium through which to reach the individual than the family.

That classification, moreover, is very comprehensive, being exhaustive in its distribution and extending to the blackest sheep, remotest from the navel of Hinduism. Those of us, who have seen days of less enlightenment, bear witness to the more compact nature of the family system of those days. In very early times to which the *Sanhitas* are referred, the family system was more stringent than now-a-days. When the people first settled down into arranged groups, the unit, as already remarked was the family; and this is so widely believed by every body acquainted with the habits and customs of the Hindus that no proof need be adduced for its substantiation. To give to the subject a show of completeness, however, it may not be amiss to remark, that of the fact in question the chapters of *Manu* are replete with circumstantial evidence—not untrustworthy yet considering the nature of the the subject, and the impossibility of the existence of any minute description of the family system, when nobody who had the most distant opportunity of receiving information about the world outside his house, could have any difficulty in ascertaining under what circumstances he lived—his father, brother brother's son, servant, all about him. What can be a better illustration than the rule that "three persons a wife, a son, and a slave, are declared by law to have *in general*, no wealth exclusively their own: the wealth, which they may earn, is regularly acquired for the man to whom they belong.* The man

* Bharyya putrascha dasascha traya aibadhana smritas,
Yattai samadhiyacchanti yasya tai tasya tatdhanam.

to whom they belong is the master of the family. Whatever his wife, his son, or his slave acquires during his life-time, is the property not of the wife, or of the son, or of the slave but of the master; it forms a part of the joint property, and is to be divided among the persons having rights over such property, according to their legal shares, after the death of the father of the family. "After the death of the father and mother," the same code further says, "the brothers being assembled, may divide among themselves the paternal and maternal estate, but they have no power over it, while their parents live, unless the father chooses to distribute it." Besides there are ample proofs of inadvisability of partition of the ancestral estate during the life-time of the father, which it will needlessly lengthen our article to quote.

We have shewn above that the father is the head of the family. Under him live his sons, their sons and wives, his daughters and his slaves. The case of the daughters is however a peculiar one; she is a member of the family of her brother or father so long as she is not married; and at her marriage, she becomes affiliated with the family of her husband. The 148th section of chapter 5 of Manu is sufficiently indicative of the same. "In childhood must a female be dependent on her father; in youth on her husband; her lord being dead, on her sons; if she have no sons, on the near kinsmen of her husband,

if he leave no kinsmen, on those of her father, if she have no paternal kinsmen, on the sovereign ; a woman must never seek independence.* Then in the chapter, defining the duties of the relations of women towards them, the code has, "their father protects them in childhood ; their husbands protect them in youth ; their sons protect them in age ; a woman is never fit for independence."† Until marriage therefore daughters remain under the guardianship of her father, and the passages above cited shew distinctly and forcibly, under whose protection she is to live after she has been given away by her father in marriage to a husband of his selection. In the event, however, of her losing her husband, and having no one in his line to grant her protection, she is with her infant sons, if any. to revert to the guardianship of her father, if he be living, or of her brothers ; and then she becomes for a second time a member of the family of her father ; such cases are to be considered as exceptional ones. •

* Balyai piturbhasai tisthet panigrahasya yanbanai,

Putranam bhartari pruitai na bhajait stree swatantratam.

Kintu balyai pituriti. Balyai piturbhasai tisthet, yauvanai bhartus, bhartari mritai putranam, tadavnbai tatsapindasu chasatsu pitripaksha prabhuv streeya. Pakshadwayabasanai tu raja bharta streeyamait iti Naradabachanat jyanti rajaheenamayatta syat, kadachanna swatantra bhabet. Kullukabhatta teeka.

† Pita rakanti kumarni bharta rakhati yauvanai;

Rakshanti sthabirai putras na stree swatantramaharti.

We have spoken of the position of the father as the head of a family. After his demise the state of the family assumes, as represented in Manu and other works, a very interesting aspect. Passing over the ceremony of the Sraddha, in which the *supindas* have a very important part, we find the brothers assembling either under the protection of the eldest, or partitioning the paternal estate among themselves. Notwithstanding the inconvenience necessarily felt by the parties in a joint family, and notwithstanding the eulogium showered upon partition by the Shastras, not unfrequently the brothers would live in jointure—there is such a predilection in the minds of Hindus in favour of the joint family system!—and that perhaps is accounted for by the fact of the universal conservatism of the race. The reciprocal duties of brothers are taught by the following quotations—"the eldest brother may take entire possession of the patrimony, and the others may live under him as they lived under their father, unless they choose to be separated;"* and "let the father alone support his sons and the first-born his younger brothers, and let them behave to the eldest according to law as children should behave to their

* *Jyaishta aiba tu grihneeyat pitrayam dhansmasheshatas,
Seshatamupejeebsaiyathaiba pitarastatha.*

father."* The eldest brother then, when turned a *pater familias* is not less the representative of the entire interests of the family of collaterals than the father. The family too of the associated brothers is not less compact than the same family under its father. The unity being preserved, the family remains intact, and to such an extent that the only change perceptible is the slipping in of the eldest brother into the room of the father. No vacancy, however, takes place. The custom relating to the subject is so perfect as the question of succession is determined of itself—it is a complete flour-machinery set agoing, well supplied with water and fuel, and under the superintendence of a man at the glass and taps, who is the greatest authority, and who is relieved at the post by different men at different hours without the slightest disorder of the wheels, the boiler, the piston, or the valves. Nothing short of actual breaking out of the brothers or their children, whoever of them may form the family, is likely to disturb the system. Until then the whole is accounted as one unit, and until then the family property remains undivided under the absolute management of the eldest brother. "After the death," says Manu, "of the father, if the eldest brother acquire wealth by his own efforts

* *Pitaibā palayait putran jyaistha bhratresā yabecayasas, putrabachahapī bertyaran jyasthā bhratart dharmatas.*

before partition, a share of that acquisition shall go to the younger brothers; if they have made due progress in learning"* "And," says the same divine, speaking of the division of property acquired by brothers, "if all of them being unlearned, acquire property before partition by their own labour, there shall be equal division of that property without regard to the first born, for it was not the wealth of their father, this rule is clearly settled."† It is perhaps useless noticing that the stress laid in the above passages, on the learning of the brothers is to all legal intents and purposes a mere threat calculated to produce beneficial effects. There is no doubt, it seems, that ancestral property, its accumulation and the acquisition of the members of the family altogether is joint property. "If among undivided brethren living with their father, there can be a common exertion for common gain, the father shall never make an unequal division among them, when they divide their families.‡ Before partition all the brothers have equal though unascertained rights to the property acquired in common. Separate gains however of the members of the joint family pass not without

* Yatkinchit pitari praitai dhanam jyaishaidhi gachchhati,
Bhago yabeeashan tatra yadi vidinausalinas, 204.

† Avidyanantū sarveshameehatai schaidhanam bhavet,
Samastatra bibnagas syadapitrya iti dharana, 9-215.

‡ Bhātreenam abibhaktanam yadyuthyanan bhabeit saha,
Na putrabhagam vishamam pita dadyat kathanchana, 9-215.

some notice in the Institutes. "Wealth acquired by learning, belongs exclusively to any one of them who acquired it; so does anything given by a friend received on account of marriage, or presented as a mark of respect to a guest."* What a brother has acquired by labour or skill without using the patrimony, he shall not give up without his assent, for it was gained by his own exertion.†

We make no apology for introducing in this place a short notice of the Roman *familia*, the coincidences in many important respects are indeed so interesting. "Slaves are," so the old Roman law laid down, "in the power of the master, a power derived from the law of nations, for among all nations it may be remarked that masters have the power of life and death over their slaves, and that every thing acquired by the slave is acquired by the master.‡ The quotation we have made above from Mann upon this point leaves no room for doubt that the slave was in the power of the *karta* in the same way as in the Roman system of law. The power of life and death which is expressly given by the *jus gentium* to the *pater familias* over his slave has no parallel illustration however;

* Vidyadhantu yadyasya tattasyaiba dhanam bhabet,
Mytramaudvahikanchaiba madhuparkika jnaiba cha, 9-206.

† Auupaghnan pitridrabyam sramena yaduparjjayet,
Sweyameahitalabdham tannakamodatumarhati, 9-208.

‡ Vide Sec. 1 Fit. VIII, Lib. I, Institutes of Justinian.

and the explanation of this circumstance is to be drawn from the difference in the manner of life of the Romans at the time under review and the Hindus of the age of Mānu. By the time of Justinian, however, the rigour of the principle was much abated. "At the present day," says Justinian, "none of our subjects may use unrestrained violence towards their slaves."* Humanity after all predominated in the obdurate heart of the Romans; and it is a wonder that Sylla himself passed a law, the *lex cornelia*, by which killing a slave was made punishable as homicide. The power which the *pater familias* exercised over his slave was spoken of as the *dominica potestas*. This however, originally differed little from the *patria potestas*, the power which the *pater familias* had over his children. If the sense of ownership was not so complete in the latter, it was probably limited more by natural feeling than by law,—“the father could sell, expose, or put to death his children.”† “Our children,” says Justinian “begotten in lawful marriage, are in our power.” The extent of the power of the father over the child, too, brutal as it seems in comparison with the Hindu system, is susceptible of the same explanation as has been offered in the case of the slave. Quite in consonance, however, with the rule

* See Sec. 2 Tit. VIII. Lib. I.

† See Sanders' note to Tit. IX. Lib. I. Justinian.

of ancient Hindu law, the child's property like that of the slave belonged to the father. As in our system so in the Roman law, there were certain exceptions under this head, exceptions not the same as those already noted in the quotation from Manu, but such as prove the theory of resemblance by being of a nature admitting of logical demonstration of their necessity and inevitability. The daughter would in this country remain in the power of the father until she has been given away in marriage.

IV.

THE FAMILY II.

In respect of the status of the brother and the daughter, there is in certain points a disagreement between the two systems of law discussed in the foregoing paper, which is, for the sake of exhibiting their similarity distinctly by an indication of the particulars wherein they very much differ, of some importance here. In the first case, in the Roman system at the decease of the *pater familias*, the brothers form different families, each being a separate head and *sui juris* at the same time. Positive proof of this can easily be collected from the ancient law, whereas nothing of the nature of an argument can be adduced to the contrary. Although the term *pater familias*, did not apply to the father as such of a family, and means a person not subject to the power of another, and consequently having others under his power—and it would not therefore be impossible for the brother to occupy that position—yet that does not seem to have been the fact. The notion of a family of brothers is nowhere perceptible. In the second case, that is, that of the daughter,

we have a clear statement, that, if her father die before her marriage, she becomes *sui juris*. Her independence follows upon the death of her father, who must have been the *pater familias*, but not if he himself was merely a subordinate member of the family. Among the Hindus, this is not, and never was, the case. Perhaps the comparison requires a good deal of allowance for the disparity of the age, and the difference in polity of the two societies, and a thousand other causes besides.

The physiognomy of the two systems we have above considered, one can not fail to observe, is strikingly expressive of identical principles in their constitution. We find in both, the father of the family exerting his supreme power over his children, son's children, and slaves, in such a manner that during his incumbency the existence of the other members of the family is, to all intents and purposes concerning the society at large, quite ignored. In both, we see the son and the slave occupying the same status, employed howsoever they may be, in matters temporal, household, or otherwise, of entirely opposite descriptions. In both, we see the daughter—no less an object of love and care than the son, is unlike him, deprived of the legal protection of the father, and passes out of his control into the circle of a different family, from the time that she is given away in marriage. The Roman law affirms the principle of *patria potestas*—simply

the power of the *pater familias*—as underlying the organisation of the ancient family. That is an explanation merely ; as the principle laid down like all principles, requires the process of generalisation, which to suppose that the ancients were conversant with, would be to ascribe to them intelligence they certainly did not possess. In the beginning of society as now a fact was a fact ; moral nature was supplemented by actual necessity ; protection was wanted, and it was granted. As however time advanced, some thought of regularity—with that superstitious personification for which the most ancient creeds are famous—dawned in the minds of the learned ; and custom made it necessary for the father to grant shelter, and for the son or grandson or other relation or stranger under the same guardianship, to obey.

Manu does indeed teem with precepts upon which a great part of the social organism of the present time is based, but for all that, the work itself is proof that it does not belong to a later period than that of the transition from an unsettled to a settled state of society, or at all events, when the present social system was in its infancy. Indeed, there is no obligation imposed in favour of a number of generations living together, and there are no rules even upon that subject ; but the strong terms representing the glorious prospect of a religious future upon partition, or separation of the members of a joint family are clearly indicative of the constitution of the family.

On that point, the most weighty argument is the pertinacity with which men even down to the present time have clung to the custom of united living, as notions or beliefs of such stability and universality have always been looked upon as leading to presumptions akin to proofs themselves, of the facts upon which they bear. The teachings of the work in question upon the status or condition of the members of the joint family require no reproduction. There was no occasion, it appears, in that work for giving an explanation of the theory of the family system; the learning and antiquarian research of the nineteenth century had unfortunately no influence upon the past, nor had the divine the most distant idea that his pages would be ransacked for jewels which he did not, for their being very common then, choose to store up there. The rules prescribed for the performance of the *śraddha* of deceased ancestors offer no clue to the secret we are in quest of, as they do not evidently include the slave and the wife. For not a very different reason the tie of consanguinity too cannot help us. Both these are of later development. The rites of the *śraddha* are as old, and have authoritative dictation in as popular a code, as the institutes of Manu. This inclines us rather to the position, that the predominance of the sacerdotal order, the peculiar gloom of superstition in which the giant intellects of the period were merged, the absolute undefined nature of the beliefs of the ignorant,

all tended to produce a change partly intentional, and partly occasioned by the progress of events, even from the natural state in which everything would take place by the law of necessity, to a highly artificial one, represented though it is as having been ordered by the divinity himself through the wisdom of his prophets. One view of the *śraddha* ritual is that, it was meant as a methodical revival and celebration of the memory of departed ancestors resulting in its perpetuation through at least fourteen generations—and this view, if we are not much mistaken, is peculiarly suited to our purpose. In that observance, we find religion recognizing the established customs in the beginning of Hindu Society, not with emphatic and plain affirmation of their existence or importance, but with a look blank and dull, suggestive of the inward thought she had of representing everything in her own way. The *pinda* and the oblation of water, were conceived, according to the degrees of proximity of the deceased to the living; and the believing world took them to be of superior religious efficacy calculated to relieve the manes of relatives from the tortures of the next existence. They thought as they were taught to think; and the idea that punishment should be inflicted on their fathers for their breach of duty, was a horror to the patriarchs, who in their turn could expect to receive only kindred service to what they would pay to those to whom they stood in the same relation as their wards to them. Fourteen generations in

the direct or male-line we have just said, were connected together by their *śraddha* ritual, and those again were connected with all their ancestors in the same line by each of them being the propositus, to whom, and from whom, one set of fourteen generations might be traced. The descending and ascending lines therefore, met in one point without any deviation in their respective inclinations; they were different parts of the same straight line. This is agnatic relationship, for "*agnati* are those who are related to each other through males. "*"

In the ancient Roman form of the family, the authority of the *pater familias* extended to the *agnati* only. In Aryavarta too, the case does not seem to have been otherwise. For supposing that the *śraddha* was a sacrament prescribed by the priests ostensibly for the spiritual benefit of the deceased, but virtually for the perpetuation of the relationship between certain members of Hindu Society connected together by the blood of the same ancestor, we find nothing prevents us from affirming that the *agnati* are the chief and the only relations, that have any admission into a discussion of the Hindu family. Indeed, the daughter's sons—the daughter's daughters require no mention at all—have a right to offer oblations to their maternal grandfather, up to the great-great-grandfather, but that is simply

* Justinian Lib. I., Tit. XV, Sec. I.

in right of their mother; and, moreover, plenty of texts may be quoted for the demonstration of the fact that, by her marriage a woman goes under the guardianship of her husband, or of him among whose wards her husband is one—why, witness the existing custom of the adoption of the *gotra* (family name) of the husband by a woman at the time of her marriage, which is distinct acknowledgment that thenceforth she becomes a member of her husband's family; witness, too, the existing custom of the removal of the bride to her husband's house immediately after she has been given away to the bridegroom. Those who are related to a man through females are termed in Roman law his *cognati*; and as it was with the Romans, so it is with us, that the cognates do not come under the same *patria potestas*, or do not strictly speaking, belong to the same family. The sacrament of the *Sraddha* is therefore in respect of the individuals within its purview rather too wide to be set down as an essential principle of the family system.

If the *Sraddha* is too comprehensive, consanguinity is still more so. It evidently ties together all persons that are born either in the male line, or in that which begins with a female, because all possess in them the blood of the common ancestors. The *agnati* and the *cognati* are not different in any way, and from any point of view that is consistent with consanguinity. The *sraddha* stops with the daughter's

sons as regards persons related through females; but consanguinity cannot be confined within that limit.

The existence of similarity is observable in the ancient Hindu and Roman social systems as regards the principle upon which the *sraddha* or consanguinity has, as we have seen above, a special bearing. The Romans of yore, whose customs may perhaps be considered to have been the remnants of still earlier usages, recognized the agnates as belonging to the same family; and the relationship implied by the *gotra* is not very different. The *gotrajas* were persons born in the same *gotra*, or more intelligibly, persons descended from those of the same *gotra* with themselves, all the *gotrajas* being related to one another through males. To be more perspicuous we should refer to the origin of this relationship. There were in the beginning, when the law of multiplication of the human race first came into effect *prajapatis* who were the patriarchs. Then followed in time the *Rishis* whose names became, not only to their progeny but to their disciples and attendants also, their family names, and descended in the main line. The son of *Bharadwaja* was a *Bharadwaja*, that is he belonged to the *Bharadwaja gotra*. All that were born of males in that line, would trace their origin to *Bharadwaja*: the sons of females born of men of the *Bharadwaja gotra*, would not have the same *gotra*, that is, they would not belong to the same family with the *Bharadwajas*; they would have the *gotras* of

their fathers, who must have been of different *gotras*, because between a male and a female of the same *gotra* a connubial relationship cannot be contracted: (*samanagotram samanārsheem kanyam nopayamet*). We have remarked above that a woman married is under the power of her husband or other guardian, who must be a near *sagotra* of her husband. We add that she changes her family-name, with her natural guardianship. Her *gotra*, or family-name, is that of her husband. The sons of a woman are not the *sagotras* of the sons of her father. With them, therefore, they do not form the same family in-as-much-as they do not come under the same *patria potestas*, either as regards immediate protection, or the traditional authority of the respective patriarchs. The *gotrajas* rank all in the male line, and have a position similar to that of the *agnati* of ancient Roman law.

We have in the preceding paragraph spoken of the *gotra* of the Brahmans. The rule is not exactly the same with respect to the other castes. Their *gotra* is to be referred for its origin, not to that of the patriarch or the first originator of each family, but to the *gotra* of the family priest. It will not be out of place to notice here that the priest in those old times was the only person who presided over all rituals for the spiritual welfare of the family. The division of that work into the part allotted to the *guru* or spiritual adviser, and that of the *purohita*,

the Brahman who performs the daily worship in the house of Yajmanas, is of later development. But although the priest gave the *gotra*, it remained unchanged, and was transmitted to succeeding generations according to the same rule as was prescribed for Brahmans. But there is one peculiarity which we should notice, as otherwise, it is apprehended we may give rise to doubts as to the correctness of our assertion. In the case of Brahmans, marriage is not allowed between persons of the same *gotra*, whereas the Sudras are not controlled by that ordinance. Calculated though this at first sight would seem to defeat our position, we hope to prove this as justifying us. The race of Sudras had tolerably multiplied at their first settlement according to the direction of the Hindu scriptures. The number of families was large when the principle of *gotra* was introduced amongst them. One Brahman would not confine himself to one family only; he became the priest of many. All these families though they were different in blood relationship, and though they were not subject to a

11. common *pater familias*, received the same *gotra*.

We should note that the coincidence is entirely accidental, and the rule of transmission of the *gotra* downwards, unchangeable and regular. To illustrate, let us mark the *gotra* of the family that was first adopted for sacerdotal purposes by a Brahman, as such *gotra* No. 1, the next as such *gotra* No. 2, and so on. We shall have families distinct in respect of

both their origin and their gotra. The *gotras* of the Sudras, therefore individually taken pursue the same course with the *gotras* of Brahmans. Between two *gotras* accidentally the same, there is nothing therefore that stands in the way of any marriage relation being contracted. The ceremony of the *Pinda* does not include within its scope the family having the identical *gotra* of the deceased, but not connected with him by consanguinity. So that among the Sudras, there are families having the same *gotra*, but not forming offshoots of the same original family.

Now to take up the thread of our argument. We have been endeavouring to establish that the principle called by the Romans *patria potestas*, and by the Hindus the *gotra*, was the soul of the family system. We are, of course no good judge of our own success. We should therefore like to supplement our reasons, with a passage taken from Manu. "A given son must never claim the family and estate of his natural father, the funeral cake follows the family and estate; but of him, who has given away his son, the funeral oblation is extinct." * The adopted son, such is the purport of the last text, for-

* Gotrariktha janayiturna hareddatrimas kwachit,

Gotrarikthanugas pindabyapaiti dadatas swadha, Manu 142-9
Gotreti. Gotradhant janakasambandhinee dattako kadachit prapnyat. Pindaacha gotrarikthanugamee, yasya gotrariktha bhajate tasyaiba sapindadeeyate. Tasmad putram dadato janakasya swadha pindasradhitatputrakartikam nibarttate Tatteeaka.

forfeits his rights to offer the *pinda* to the natural father, because the right follows the family and estate, and the family and estate of the natural father, the son given away has no claim to. The moment a son is adopted by a different family, he is not, and thenceforth never becomes a member of the family of his natural father and consequently is not eligible for the performance of his *sraddha*.

It is obvious from the above that the right of *pinda* is dependent upon the *gotra* ; so that the *gotra* is the hinge upon which the *sraddha* turns—it is the first moving cause, by which the family system is kept a-going. We can not here refrain from noticing the fact that however much the sacrament prescribed by the four Vedas may differ in other particulars, they are at one in holding that for the identification of the person in respect of whom any rite is performed, his *gotra* and the *gotra* of his predecessors up to the fourth degree must be pronounced with their names. It is evident that the institutions of annaprasana, marriage and *sraddha* could not be earlier than the *gotra* ; and this is quite consonant with the theory which jurisprudence and common sense suggest.

In speaking of the *gotra* relationship we have distinguished it from consanguinity ; and besides noticing one fact in relation to the point, it would be bootless to go over the former ground again. In illustration of what has already been said we intend

to refer to the definition of consanguinity in the Indian Succession Act. Sec. 20 of that Act runs as follows :—Kindred or consanguinity is the connexion or relation of persons descended from the same stock or common ancestor. Persons, of course, means both man and woman ; there is therefore consanguinity between the married daughter, the brother, and the married sister—and this is relationship not recognised by the *gotra* theory. Not to speak of collateral consanguinity which is defined to be that which subsists between two persons who are descended from the same stock or ancestor, but neither of whom is descended in a direct line from the other, lineal consanguinity which means the connexion existing between two persons, one of whom is descended in a direct line from the other, in as much as it does not cease on a daughter being married, and does not allow the daughter-in-law a place among those that are within its pale, will be a too defective principle to be affirmed of the old form of the family system. The *famīy* is the family of *sagotras*, all women being of the *gotra* of their husbands, and unmarried girls of that of their fathers.

By affirming *sagotra* kinship between the persons composing a family, we certainly do not wish to be understood as meaning to include all *sagotras* in the same family. In such a case, clan or tribe would be a better word—in the absence of an appropriate one—to express the idea signified by *gnati* in Bengali or

Sanskrit. Indeed, cases are yet discernible of a large number of sagotras living together and forming the same family; but they would rather answer the description given in the previous article of a village community. Instances of families with the grandfather as the head, are very common, and the great grand-father occupying the position of the *pater familias* is not rarely seen. Does it not then appear likely that in the earliest times fourteen, afterwards ten, and next after seven generations might live together?

V.

MARRIAGE I.

SOCIETY depends for its existence upon the union between man and woman, and it received its start from that circumstance. Whether we believe in the account of special creation given in the Old Testament, or follow the Darwinists in their efforts to evolve speaking mankind from the dumb ourang-outang, it does not matter in the least for our present purposes; nor does it signify whether we attribute the creation of man to the will of Brahma of the Vedic trinity, or to the mysterious action of *prakriti* and *purusa* of ancient mythology. There were, we may at this time of the world safely say, men and women living together in the earliest times, and although we may not agree as to the exact place of their first abode, or the manner and circumstances in which they migrated to the different latitudes of the earth, the law of nature was unimpeded in its operation. In the Satya Yuga, which to us, seems to be a period during which the Hindus had been living in the mountain regions of the Himalyas, from the sea on the west to the ocean on the east, interspersed

with mountain ranges, now known under different names and extending towards the Arctic pole, that same law governed the generation of progeny. But such a state of things could not obviously continue for a long time. Discontent and disorder, if not primarily the actual struggle for existence, brought on a more regulated condition of domestic life, and union between persons of the two sexes in some recognized form or other became a necessity, the merest accident of a meeting between a fair girl and a powerful man, and the gratification of the desires of the flesh only, followed by a disregard for the objects of love and affection on the part of the masculine stranger, being found highly inconvenient for any system of life, and for the procreation and protection of offspring.

A question not very many years ago agitated the Christian community of Calcutta led by a respectable number of European Missionaries, who in their earnestness to improve the manners and customs of those that are legitimately under the control of their creed, found themselves interested in making grafts on Hindu Society as well, and put forth suggestions and proposals for the furtherance of their object, nay generously extended the right hand of fellowship to the Hindus, and offered to raise them from the mire in which they were imagined to be, even should it require the legislative workshop to send out some gigantic machinery to help to effect the much desired rescue,

Thanks are due to all those gentlemen who have the welfare of the Indians at heart, and if they have made a mistake in choosing the subject that received their attention, it is one that all right-minded gentlemen in their position would be likely to commit. Is it however possible for them to enter into the spirit of Hinduism? And as the question of early marriage is both a social and a religious one to the Hindus, to examine only one phase of it and ignore the other, would not be doing justice to it. Even from the point of view of the socialist, difficulties of an insurmountable character present themselves which render hurried changes in the direction contemplated extremely undesirable. That grown up men should marry young women by intelligent mutual consent, argues a state of society very different from that of the Hindus. But it seems that modern ideas will prevail with the spread of English education and Hindu prejudices will gradually die away. Who does not feel the transition? The theological stage is said to be passing away, and the philosophical to have already established itself sufficiently firmly to demand recognition at least in Bengal. The battle between the two influences is severe, yet the law of human progress asserts itself, and compels old notions to give place to modern scientific thought.

Hindu society is not yet prepared to appreciate the benefit which is offered to it, and it being admit-

ted that the marriage system which is held out as deserving of being followed is not an unmixed good, where men and women are equally free in every thing, how much more questionable would its character be if it is pressed upon men on the one hand, who would for the satisfaction of their animal appetites hardly wait to be married after the age of eighteen, and on women on the other, whose entire training has been in seclusion, and who have learnt to look upon every doctrine contrary to, or outside of, the lessons of their *bratas* and of the Hindu Shastras, as at best an unwelcome innovation? How is it proposed to bring about the consent of the bride and the bridegroom to their lifelong union if they have no access to each other, and no opportunities of trying each other's feelings and sentiments? "Why," the zealous reformer indignantly says, "this state of things ought not to be allowed to last." But he fails to see that he has complicated the matter already so much as to require the total extinction of the social usages. Female emancipation in its turn to be a practicable and desirable institution ought to be preceded by a thoroughly moral and sound education of both sexes, and of the males principally whose character it must be the very first attempt to guard, as upon it the success of the proposed reform will rest. What parent or guardian of an unmarried female graduate will think of forcing her to accept as her spouse a man whom she does not like or love? Marriage will

then be at the discretion of the woman, and there will be a spontaneous revival of the *Gandharba* form of wedlock in a manner so natural that it will be considered by those classes of persons who are now vehemently opposed to it, as a mere matter of necessity. The *Gandharba* was one of the eight forms of marriage spoken of by Manu :—

Brahmo-daibasthaibarsho prajapatyastathasuras,
Gandharba rakshasaschaib paishachaschastamo'hamas.

The Brahma, the Daiva, the Arsha, the Prajapatya, next the Asura, the Gandharba, the Rakshasha and the eighth and basest Paishacha.

That form has been called the *Brahma* in which the bridegroom learned in the Vedas and observant of the principles of religion and morality is cordially invited, and with due honors is offered the hand of the daughter who is dressed and to whom *archana* has been performed. The rite, which sages call *Daiva*, is the gift of a daughter, whom her father has decked in gay attire, when the sacrifice is already begun, to the officiating priest, who performs that act of religion. When the father gives his daughter away after having recieved from the bridegroom one pair of kine, or two pairs, for uses prescribed by law, that marriage is termed *Arsha*. In the nuptial rite called *Prajapatya* the father gives away his daughter with due honor, saying distinctly: "May both of you perform together your civil and religious duties!"

When the bridegroom, having given as much wealth as he can afford to the father and paternal kinsmen and to the damsel herself, takes her voluntarily as his bride, that marriage is named *Asura*. The reciprocal connection of a youth and a damsel, with mutual desire, is the marriage denominated *Gandharba*, contracted for the purpose of amorous embraces, and proceeding from sensual inclination. The seizure of a maiden by force from her house, while she weeps and calls for assistance, after her kinsmen and friends have been slain in battle, or wounded, and their houses broken open, is the marriage styled *Rakshasha*. When the lover secretly embraces the damsel, either sleeping or flushed with strong liquor, or disordered in her intellect, that sinful marriage, called *Paisacha*, is the eighth and basest. Not all the facilities now afforded to enable unscrupulous men to overwhelm their intellect with the noxious effects of inebriating drinks and intoxicating drugs of various strengths and qualities, will justify the last form of marriage at the present day. The main objection of the authorities to the *Asura* form, is based upon religious grounds, but supported as they evidently seem to be, by arguments derived from considerations for the well being and preservation of society, and as no reformer will countenance such a marriage in modern times, we may pass on to review the other forms which *Mannu* did not absolutely forbid. *Rakshashtu* is a special form of marriage allowable in the case of

warriors, and by its very meaning refers to events not of daily life, but of very infrequent occurrence.

It was perhaps advisable for political and social reasons, in very early times when society was being formed, and village communities were just springing into existence, in those days of wars and conquests, to legalize marriages of a most equivocal character, which would not under more improved circumstances deserve even to be so-called; and very naturally we find the three most objectionable forms soon die away. The *Gandharva* is the only form out of the last four which has an important bearing on the constitution of society, and it appears that it was not entirely obsolete so late as the end of the Dwapara and the beginning of the Kaliyuga, when foreign encroachments and influences began to prevail and the glory of the royal dynasties of the Hindus came to be on the wane.

Of the first four forms of marriage, the second and the third are quite peculiar in their incidents, and although they were spoken of with approbation by the great law-giver, they naturally ceased to prevail as the circumstances under which they might be performed, of themselves became rare with the advance of time. Therefore it is not surprising to find in the Mahabharat, chapter 44 of the *Anusasana parva*, mention only of the Brahma and the Prajapatya as allowable for Brahmans and Kshatriyas and of the *Gandharba*, the *Asura*, and the

Rakshasha as the inferior four. The only three forms that prevailed at the end of *Dwapara* and were declared to be consistent with religion and morality, were the *Brahma*, the *Prajapatya*, and the *Gandharba*. *Rakshasha* marriage is an impossibility in these days, but the *Asura* continues to the shame of a lower class of *Brahmans*, whose number is happily fast decreasing, and as proof of the cupidity and ignorance of certain low *Sudra* castes, who it is to be regretted have not yet risen higher in the social scale. Emerging from the period of mythology and legends, we find ourselves in *Kaliyuga*, when we see things as they are, and are not prevented by a dread of having to commit a blasphemous act by indulging in matter of fact ideas of events. We distinguish between faith and reason, and giving up our old avocations leave the former to rule our domestic and religious duties, and follow the dictates of the latter in the exercise of our daily business.

The eminent scholar, Dr. Guru Das Banerjee, in his erudite work on *Marriage and Stridhan*, in accordance with the literal construction of a text from *Yajnavalkya*, treating of *Prajapatya* marriage says:—"It is the fact of the bridegroom being a *suitor*, an applicant for the bride's hand, that distinguishes this form from the *Brahma*, and makes it inferior to the latter, in which the bridegroom is voluntarily invited by the father to accept the bride." But it strikes us that the real and more practice

distinction between the two modes consists in the offer of wealth and valuable presents to the bridegroom in the Prajapatya which find no place in the Brahma, in which the daughter is decked with a robe, and with due ceremonies is offered to a man learned in the Vedas, who is cordially invited to receive her hand. This view is borne out by the teachings* of Bhisma in the chapter of the Mahabharat already referred to; and although it seems to conflict with the gloss of Kullucbhattacha on sloka 27 of the 3rd chapter of the institutes of Manu, wherein he explains the use of अर्कविवा as meaning अनङ्गरादिना अर्कविवा, and with the exposition of the text given by Raghunandan in *Sanskara tatwa*, in reality it does not, in as much as the offer of presents to the daughter is not compulsory at all, nor can it be any of the conditions imposed by the bridegroom for the bestowal of his consent to such a marriage. It adds to the merit of the gift of the daughter if the father is able to, and of his own free will does, embellish her with ornaments as a part of her *archana* or worship. A consideration of actual facts and probabilities will throw light upon the nature of the Prajapatya method, and clearly show in what respects it is inferior to the

* Seelebrisse samajuaya vidyanggyonineha karmacha, 2406

Sadbhirabang pradatabya kanya gunayutabare.

Brahmananang satamesha brahmo dharrgo yudhishtira.

Abahyambahedebam yo dadyadanukoolata.

Rishtwang kshatrisnanckh-sharita esha sonatama.

.Brahma. The material point in the former is the appointment of marriage indicated by the important words "Saho bhaū charatang dhārmam" regarding which Kullucbhatta says that the nuptial ceremony when it is preceded by a settlement of marriage made beforehand by the said words is the Prajapatya form. • This appointment which appears to be what is known as *वसुधा* is no part of the Brahma rites; and since it is clear that when a father desirous of offering his daughter to a qualified bridegroom, seeks his consent to the wedlock, he places himself in a position in which it becomes necessary for him to provide valuable gifts to bring about the acceptance of his loved daughter by the bridegroom of his choice; the bridegroom being thus in his turn induced to stand as a suitor, as attendant upon the marriage there are such favours and earthly advantages to be gained. This explanation renders the use of *अशुक्लतः* in the passage quoted from the Mahabharat, perfectly reconcilable with the sense of *अर्चने* in the following passage which we believe is the one referred to by Dr. Gurudas.

Ityukta charatang dharmam saha ya deeyaterthine,
Sa kaya—

YAJÑNVALKIA.

The Brahma, it is obvious, obtained among the sages and people of their rank, with whom wealth had no attraction, and was not a thing to be wished for; and the *Kaya* or *Prajapatya* was a more general form observed by the ordinary run of people. This

explains the circumstance that in the very last portion. of Dwapara, the Prajapatya has been described to be a form of marriage in which the bridegroom's consent was obtained by the offer of valuable presents to him. This form along with the Brahma has come down to our own times; and if we take a comprehensive view of the whole circumstances that surround the completion of a marriage, it will appear that the two have been wedded together, certain portions of both being rejected and others retained to suit the requirements of society. The *Gandharba* is rare for reasons not far to seek nor too abstruse to be understood.

There is one element common to the last four nuptial forms, and it consists in the solicitation on the part of the man for the hand of the woman; and in this principally lies the distinction between the two classes of the first and the second four. The acceptance of the proposal in cases in which the girl is not past three years after puberty always lay on the father, and it was only in the event of the father or his relations failing to give away the girl in marriage before that period that the girl was free to choose her own partner from among her own class.

Treeni barshanyudeeksheta kumaryritumatee satos,
Urdhanta kaladetasamadbindeta sadrisam patim,

90 V. Chap 9. Manu.

In order, therefore, that the *Gandharba* marriage might possibly take place, we must suppose a

most deplorable omission of a most solemn duty on the part of the parents and relations of a marriageable girl. Even in the early ages, therefore, instances of such a form as the Gandharva would necessarily be few in society, for what Hindu who obeyed his Shastras as nature followed its laws, would incur the risk of being hated on earth by his co-religionists not to speak of the other and more serious consequences entailing upon himself and his relations in the life hereafter, by not marrying his daughter to a suitable person. "Reprehensible is the father" says Manu, "who gives not his daughter in marriage at the proper time" (v. 4 chap. 9), and Gautama adds that the period before puberty is that time, Manu himself in another connection and as a special case saying, "to an excellent and handsome youth of the same class let every man give his daughter in marriage according to law, even though she has not attained the marriageable age," the period between eight and ten being held to be that age in all the Yugas. The opinion of the Hindus since time immemorial has been that a daughter must be given away in marriage between the 8th and the 10th year of her age by her father or her other guardian. Parasara, while laying down the social laws of the present age, says :

Ashṭavarsha bhṛṣṭagourā nabavarsha tu rohinee,

Dasavarsha bhabet kanya ata urdhang rajaswala,

Prapte tu dwadase varshe yas kanyam na prayachchhati,

Masi masi, rajastasyas pibanti pitaras awayam,
 Matachaiba pitachaiba jyeshtha bhrata tathasibacha,
 Trayaste narakam yanti drishtwa Lanyam rajaswalam,
 Yastam samudbahet kanyam brahmanojnan mohitva,
 Asambhashyohypangktayas sa biprabrishaaleepati.

When eight years old a girl is called Goury, at nine she is Rohini, at ten she is a Kanya, after that she is in a state of puberty. If one does not marry his daughter even on her attaining the age of 12, he and his ancestors * * * her mother, her father, her elder brother, all three will go to * * *. If a Brahman takes her as his wife, he becomes an outcaste &c. &c. So do Angira, Yama and a whole host of Sanhitakars and commentators enjoin the marriage of a girl before puberty, and condemn her detention at home in an unmarried state after that period. Nor are they mere ordinances. The whole of the Hindu nation follow them, and are unanimous in the idea that the marriage of a female ought to, and must take place before she has attained puberty. The age of 12 is considered to be the extreme limit of the marriageable period, as puberty is supposed to have been attained at or before that age. Need we multiply authorities when we seriously think that if Hindu society is to be preserved the rule must be religiously adhered to? And we think there ought to be no contention regarding the remark that the Hindu cottage is the home of domestic bliss. If our reformers consider that we are prisoners in Circe's land, they betray a most lamentable want of knowledge of our real condition.

Happiness is in the mind: and we venture to think that luxury and pride do not contribute to it—that a boast of moral independence does not help to secure it. That the Hindu wife is really the half of the husband's body, is a proverbial fact: the Hindu mother is the most affectionate being imaginable the incessant practice of virtue keeps the Hindu female happier than her sisters of the enlightened west. Whatever the advantages or charms of the European family may be, so long as the Hindus are allowed to continue with their system, the marriage of girls before they attain puberty is a *sine qua non* for securing domestic peace, felicity, and good government. The little *bow* becomes a dear object to every one since the moment of her reception in the family of her husband, and is placed under peculiar circumstances which need not be detailed, to be able to study her husband's manner and likings and to impart to her husband a thorough insight into her own sentiments. When it is the religious duty of a wife to revere her husband more than any other being on earth, and the enjoined duty of the husband to make her happy, the lime light of civilization, reflected upon the constitution of such a family, will not discover in it awkward and ugly deformities, and repulsive delineaments.

The age of the bridegroom, on the other hand, remains to be considered. The *Shastras* which embrace within their purview the minutest and even what

would seem to be the most unimportant points of domestic life, could not be expected to be without adequate rules on this branch of the subject. It is a matter of pity, however, that the modern Hindus have very much deviated from the ancient custom. The 94th verse of chapter 9 of Manusmṛiti lays it down as a rule that a male person of the age of 30 years will marry a female of 12, and that a young man of 24 will espouse a girl of 8, indicating thereby that the age of the one ought to be three times that of the other at the time they are united in hallowed wedlock. But along with this we find later on that the commentators say that this rule is not strictly followed, and that among the generality of people who are unable to follow the wise sayings of the sages closely, the rule is very frequently violated. The infringement of the law was evidently more common even in very early days than its observance, and this was necessitated by the desire of young men to marry as soon as the custom of the time permitted. This deflection produced serious changes, and the increase of the eagerness for marriage went on quite in a progression, as men went off more and more from old paths, and betook to others where they could act more according to their own inclinations and desires, without being much restrained by precept or form. Even so early as the time of the Pāṇḍavas, we find it said in the Mahābhārata regarding the relativity of the ages of the

man and the woman, that the former at his thirtieth year ought to marry the latter at sixteen, if she has not already passed her puberty :

Trinsadvvarshas shorasabarsham bharyam vindate nagnikam.

Ato spravritte rajasi kanyam dadyat pita sakrit.

Roughly calculating therefore the age of the bridegroom with reference to that of the bride when married at 12, we see that the old proportion has been reduced to the one being about double of the other. In later times, therefore, that same change has been more rapid ; and people have come to think a match between a girl of 12 and a man of 24, as not quite a fit and desirable one. In the case of the daughter being 10, which is the average age of a girl's marriage in these days, the father prefers a youth of 18 to one of higher age, as allowance has to be made for the period between that age and her attaining the age of child-bearing, when her husband becomes 21. However much this practice may differ from the old and honored custom indicated by Manu's text quoted above, the promoters of the agitation which has been kept up for some years on the question, do not seem to have a better and more desirable ratio to propose. To enable the public to form a fair opinion on this, as well as on other collateral points, the Government would do a great service to the country to take a census of the population of India, in which such information should be called for and obtained, as would supply the statistics

in want of which energy and enthusiasm is being wasted in uncertain, unreliable, and therefore valueless calculations and conjectures. But let it be said to the credit of the much abused Hindu system that the form of early marriage, such as actually obtains in society, and not the form which is conjured up by the imagination of certain Christian Missionaries, which works them up to paroxysms of warmth and zeal, honest and well-intentioned though the same may be accepted to be, not only does not interfere with the intellectual development of Indian youths, but is a positive advantage in that it exercises a beneficial influence on them in maintaining their morality. Point not to instances of recklessness or indiscretion, and connect them not with early marriage as its parent: a more uncharitable and incorrect view of Hindu society could not be taken.

A great deal of unnecessary hubbub could have been avoided, if a true knowledge of the position of women in Hindu families had directed the sentiments of ardent reformers regarding the indispensable character of consent or choice on the part of the wife. The marriage of young men not arrived at majority, is not a rare fact, and at the same time it is not defensible upon any of the grounds that have been or may be urged in favor of the marriage of girls. Material improvements may be advantageously made by slightly modifying the average marriageable age of the bridegroom, or we think, we would better express ourselves if

we said, by the practice now rather generally obtaining among the intelligent and educated portion of the community, being rendered universal, allowance being made only to meet the requirements of special cases. The reformation alluded to has shooted forth of itself, and favored by the genial breeze of English education and enlightenment, is growing daily, deriving its nourishment from the fertile soil of the society in which it has taken root. Yet when can a man be said to be fit to choose his partner?—Not certainly when he has just attained majority, but after he has got an insight into the practical world which will delay him to a period till when no guardian will ever consider it safe to keep him a bachelor. The selection of a partner in Hindu society specially by a youth himself is an extremely difficult task, and the probabilities on the side of his failure render it very undesirable that he should decide for himself; while on the other hand as the marriage of a girl before her teens is unavoidable, nuptial union by intelligent consent of the parties becomes a matter of impossibility. That is why the *gandharva* form of marriage has become obsolete.

There is a reason why the Hindus obey their religious matrimonial laws so very strictly. The chastity of the wife is a dear idea to the Hindu, and it is a religious and a social necessity: it is the very first point in the purity of the home, purity of the sacrifices, and purity of worship: and it is this senti

ment of purity pervading everything Hindu, that dictates to him the purification of a female by the ceremony of marriage. It is in fact the *sanskara* indispensable in the case of the fair sex, and it is spoken of by Manu in the following terms :

Baibahiko bidhis strinang sanskaro baidikasmritas,
Patiseba guran baso grihastho agni parikria.

Marriage has been ordained for a woman by the laws of religion, and it is to her what the investiture with the holy thread is to a Brahman: the performance of her duties towards her husband is what in the case of a Brahman it is to stay in his religious preceptor's house, and to render services to him: the duties of her household are as the sacred duties of a Brahman to his holy fire. The wife is the soul of the Hindu family system: the dictatress and imperatrix of her own dominions. Her purity honors the entire family, and in it lies the secret of her strength, influence, and power. The Hindu is extremely sensitive and careful in respect of this quality, and endeavours to guard it against the slightest possibility of contamination. To divest the Hindu mind in a hurry of this idea is to accomplish the work of Sisyphus, or to make the lost waters of the Nile flow back to their parent lake.

VI.

MARRIAGE II.

Early-marriage of girls would be positively immoral and absolutely objectless in a community where unlike the Hindu connubial relationship is a mere social contract, and is not connected in any manner with religion, or the spiritual benefit of either party. Even among Hindus with whom it is a sacrament, the actual consummation, as it is understood generally, does not, thanks to the Pundit law givers, follow upon the gift and acceptance of the daughter, but is referred to a harmless period of her life. Quite in the spirit of the Shastras, but slightly in deviation of the principle involved, the legislature not very long ago preferring a numerical limit to an indecorous enquiry, with a view to raise the age under which it would be criminal for a man to have intercourse with a woman with or without her consent, proposed to substitute the word "twelve" for the word "ten" in the clause marked *Fifthly* and in the Exception to section 375 Indian Penal Code dealing with rape. Both married and unmarried people come under the fifth clause, as is clear from the *exception*. So the

exception will have to be read with the clause—and there were very strong reasons for its introduction, for the framers of the Penal Code were of opinion that “sexual intercourse by a man with his own wife is in no case rape;” and this they took care to insert as an exception when they put down the said clause in the Code on its being laid before the Right Honorable Lord George Auckland, Governor-General of India in Council. Nor were those great jurists and far-sighted law-givers by any means singular in such opinion.

Then in their first report on the Code, the Indian Law Commissioners say :

“Again Mr. Thomas objects to the exception which declares that sexual intercourse by a man with his own wife is in no case rape.’ He says ‘I doubt the propriety of this exception. The early age at which the children are married and are in the eye of the law wives, makes it necessary that protection should be given to them by the law till they are of age to reside with their husbands. I remember a case of forcible violation and great injury to a child where the offender was the husband.’ Mr. Hudleston and Mr. A. D. Campbell concur with Mr. Thomas.”

The age therefore of the childwife under which she must have no carnal knowledge, came into their serious consideration, and in paragraph 445 of the said report, they have given their reason for fixing a particular age :

"443. Although marriages are commonly contracted among Mahomedans and Hindus before the age of puberty on the part of females, yet usually the bride remains in the house of her parents till she is of a fit age for the consummation of the marriage, and it may be fairly presumed that the parents, her natural guardians, will in general take care to prevent abuse in this respect. There may however be cases in which the check of the law may be necessary to restrain men from taking advantage of their marital right prematurely. To meet such cases it may be advisable to exclude from the exception cases in which the wife is under nine years of age. Instances of abuse by the husband in such cases will then fall under the fifth description of rape."

Since then nearly half a century has rolled on. Education has stalked on with gigantic strides all over the country, condemned Bengal more specially; the government and the people have spared no pains to disseminate enlightenment among the masses, and yet His Honor the Lieutenant-Governor says that "it is a general practice for Hindu girls, after they are married, but before puberty is even indicated, much less established, to be subjected to more or less frequent acts of connection with their husbands. The custom appears to be wide-spread—less universal among the higher than among the lower classes of Hindus—but it prevails generally over Bengal proper, specially over Eastern and Central Bengal." It does not extend

generally to Behar, nor is it prevalent in Orissa, and the aboriginal tribes are apparently free from it." We have no means at hand of ascertaining from what sources this information was derived, so we are unable to judge of its quality ; but coming as it does from His Honor's report, it is entitled to very great respect and credence. The only inference therefore that can be drawn is that, the abuse springs up where English education has introduced novel modes of thought creating in people's minds a wild confusion in their ideas of personal rights and liberties, and displacing wholesome customs and practices by new habits of life at their will and according to their pleasure. Yet it is singular that the case out of which the great discussion arose was one in which an Uria was the accused charged with what was an offence equally against the Hindu religious law, and the criminal law of the land.

Now, in enacting the fifth clause the law Commissioners were perfectly sensible of the necessity for protection of child-wives, and while saying that instances of abuse by the husband would fall under the description of the offence given in it, they drafted it out as follows :

"Fifthly.—With or without her consent, when she is under nine years of age."

This they thought expedient upon a full consideration of the Indian law at the time being, the

English law on the subject, and Mahomedan and Hindu customs. They say in paragraph 446 of the said report :—" We may observe that by the statute IX. George IV. cap. 74, which governs the administration of Criminal Justice by Her Majesty's Courts in India, the age under which the carnal knowledge of a girl is a crime of the same degree with rape, is eight years;" and they further explain their view in para 693 in the postscript to the said report ;—" the Code includes under 'rape' sexual intercourse with a girl with or without her consent when she is under ten years of age. By the Schedule it is proposed to render it so punishable when the girl is under twelve. By the statute for India the age is eight years." We have thus full light thrown upon the question why the age of ten was fixed eventually as the age under which it would be criminal for any body to have intercourse with a girl with or without her consent; and it is clear that this was done not from any want of consideration as to whether the particular age of "twelve" ought to be the limit of protection, but after mature and due deliberation, as is evident from the fact of that age being noted in the schedule referred to in the above quotation.

Thus the law was framed that we found in force before the amendment. The exception excludes from the operation of the fifth clause cases in which the

husband and the wife are concerned, and very properly, if we look at the matter in the light of the Hindu religious law and customs. Notwithstanding the attempts made by people not knowing the Sastras to prove the contrary, it is undesirable here to enter into a long discussion as to what the law is or is not, and whether it is susceptible of one or another interpretation; but this may be distinctly stated on the authority of Parasara, who indeed carries the Hindu law to the utmost stretch in favour of women, that between eight and ten years of age a girl ought to be married, and that between ten and twelve is the debatable period, during which the girl must be married before the first indication of puberty. That being so, and all other authorities including Manu being of the same opinion, and further, girls as a rule being married before that event all over the country, the husband if he is not himself a minor becomes legal guardian of his infant wife. Yet the prevailing custom is that the married daughter remains under her paternal roof until after the occurrence of the said event, when a religious ceremony is performed. It may be said with some truth that in certain families or in certain places the rule of *garbhadhan* is not strictly observed; but that is no reason why it should not be obeyed by those people who are more orthodox than the others, and who outnumber them beyond calculation. So long as the Hindu belief is that the Dharmasastras enjoin *garbhadhan*, at an

unobjectionable period of the child-wife's life* on penalty of *pratyabaya* (commission of sin) in default, one would think it were better that a distinction had been drawn by the Government and the Legislature between married and unprotected girls in this connection, when their object might well have been attained without any the slightest interference with the religious scruples of the Hindus.

But a question was asked why should a distinction be made in the age for the purposes of the fifth clause and of the exception? One child is as much entitled to protection as another, and His Excellency

* Immediately after the injunctions regarding marriage which must have taken place before the first indication of puberty in the wife, occurs the following sloka: *Manu*, Chap. 8, v. 45,

Ritukalabhigamee syat swadarniratas sada.

Parbha baryyang vrajechchain tadbratoratikamyaya.

Kullaka Bhatta in his commentary says,

Ityayam niyamabidhis, natu parisankhya.

He quotes *Parasara* :

Ritumnatantu yo bharyam sannidhan nopagachobati.

Ghorayam bhrunahatyayam patate natra sangsayas.

Raghunandan, popularly known as *Smarta Bhattachariya*, in his great work, the *Ashtabinsati Tatva*, begins his chapter on *garbhadhan* with a quotation from *Gobhila*.

Yada ritumatee bhabati uparatasenita tada sambhahakalas.

Rituprajajananyogyakalas tannimityena naimittikam.

Gamanakaryam akurbatas pratyabayanniyamas.

Ritumateentu yo bharyam sannidhan nopagachobati.

Abapnoti sa mandata bhrunahatya mritavritan.

Iti smritis.

in his remarkable speech, 'breathing' the spirit of humanity and bandour in every word, very justly said that "the immaturity of a young girl does not vary according as she is married or not," Yet it strikes one that there is so much difference between the practices, habits, and methods of life of the unmarried

Says Yajusvalkya

Garbhadhanamritau pugsas sabanam spandanat pura.

Chap. I, v. II.

Shorasarttu nisas streenang tasm yujnasu sanbiset.

Brahmacharyeb parbbanyadyaschatastrastu baryyayet, 79.

The first line applies to a woman when she attains puberty after her marriage, the next two generally. A son born of a woman in regard to whom the Sanskara of *garbhadhan* has not been performed is a *wratya*—

Bratyas sanskaraheenasyat—*Amarkosh*. v. 724.

The unenviable position of the *wratya* need not be described here.

A great mistake is committed by not reading the slokas along with the context. But if that is done, there cannot possibly be any contention regarding their meaning.

Medhatithi in his commentary on Manu (Chap. III, v. 45) says

Ukta bibahas. Tasminnibritte samupayata daratwe tadahare-bechchayopagame prapte tannibritarthamwidamarabhyate. Na bibahasamaantaram tadaharebagachchhet kim tarhi ritukalam pratikhata.

In it he gives the reason for the injunction in the sloka quoted from the work of the sage, whereby the husband is forbidden to approach the wife before the event upon the occurrence of which Parashara lays down her duty in explicit terms thus :

Situntatantu ya naree bhartaram nopasargati.

Se smita parakam yati widhawe cha panas panas.

Chap. IV, v. II.

and the married women, that upon the point under consideration, it cannot safely be said that the unmarried woman who does not live honorably, does not require from the state greater protection than the lady, who is, barring most exceptional cases which it is to be regretted must occur in all societies, usually the object of love and affection more of the family of her husband than of her parents, and thus receives the attention of, and is always carefully looked after by, both the families—which in the Hindu sense means a large number of human beings, all of whom, by the way, cannot, even in the cases above excepted, possibly possess equally cruel tendencies ! Here we may be excused for noting that European gentlemen likely have no correct information as to how kindly the little *boku* (the newly married girl) is treated in her husband's house—she is, for an example, not allowed even to walk on her feet lest anything should give her pain, and is carried on the arms of the mother-in-law or other female members of the family or female servants, not to speak of the caresses she receives from them and from all other female friends and relations.

We hope to be pardoned for referring to a case in Calcutta in which certain persons were charged with kidnapping a female child about thirteen years old for immoral purposes, and for compelling her to submit to improper acts on the part of able bodied men for the sake of gain. She swore that all this

was done contrary to her wishes, and the female guardian of hers, who came forward to complain, swore to her not having known impropriety before; but the medical evidence proved that not only had she for a long time been used to such conduct, but that she had contracted certain evil habits which confirmed that evidence. The use that is made of girls like this poor wretch certainly calls for interference, and it requires no force of argument, we apprehend, to establish the necessity for raising even the proposed age of twelve.

Under English law any person who unlawfully and carnally knows any girl under the age of thirteen years, shall be guilty of felony, and so also shall any person who unlawfully and carnally knows any girl being of or above the age of thirteen and under the age of sixteen, be guilty of a misdemeanour,* and it does not matter whether the girl gives her consent to the offence being committed. There is a parallel provision under which the detention of such a girl is punishable either as a felony or as a misdemeanour according as she is under thirteen years in the one case or under sixteen in the other. There is no reason why we should not take a hint from this law; and further having in India section 552 of the Criminal Procedure Code, already in operation for years and

* An Act for the further protection of women and girls &c.
43 and 49 Vict., cap. 69, sects. 4 and 5.

years, a law under which upon complaint of the unlawful detention of a female child under the age of fourteen years for any unlawful purpose the magistrate has been given jurisdiction to interfere ; and further still the offence of kidnapping requiring the subject to be if a male under fourteen years, and under sixteen years if a female, it may safely and without objection be laid down that the age of consent in respect of unmarried girls, should be fourteen years. It need not be pointed out that such a provision would operate for the benefit of those respectable girls also, who either under the custom prevalent in their society, or for reasons of social reform, or other reasons perhaps not less cogent, are not married before that age ; and this law one would venture to think would be courted by the guardians of such girls, be they Christians, Mahomedans or Hindus.

On the other hand as regards married girls, it should be observed that the word *unlawful* enters into every section of the said Act 48 and 49 Vict. cap. 69, and renders it clear that the husband protected by his marital right is incapable of committing the offences described therein, and it is apparent that the English common law on the subject is left untouched by the said Act. Therefore in law there did not seem to be any necessity for raising the age of ten to twelve in the Exception to section 375, Indian Penal Code ; nor did it, on the ground of following English legislation, seem expedient to do so, more specially

when the Indian law would then go further, and that unnecessarily, than the law in England—a country where the nation itself is careful of the interests of women, and where the slightest thing to their prejudice would be instantly and assiduously removed for the sake of their ease and comfort.

Again the personal law of India made ample provision for the punishment of an offender who is imprudent enough to cause hurt in the wicked act of having intercourse with his wife before the first appearance of puberty; and this proposition has been very strongly established by the conviction by judge and jury in the case out of which the discussion above. The Honorable Judge is understood not to have said that the law was defective, but to have directed the jury to come to a verdict, not again upon the question of the age of the girl, which they would have to do if the case came within the provisions of section 375, but upon "the facts of the particular case on the evidence, and to say whether, having regard to the physical condition of the particular girl with whom sexual intercourse was had, and to the intention, the knowledge, the degree of rashness, or of negligence, with which the accused is shewn to have acted on the occasion in question, he has brought himself within any of the provisions of the criminal law;" and the criminal law of the Penal Code was vindicated by the jury being able to pronounce a verdict of guilty, and the Judge to sentence the offender to imprisonment.

But in the opinion of our governors a moral necessity arose which compelled them to make some law restricting the use of the wife's person by the husband, and His Excellency said :—

“ We propose merely to protect from the unquestioned evils of early prostitution or premature sexual intercourse that great body of the female children of India which lies between the age of 10, up to which the present law offered them protection, and the age of 12, up to which we propose that such protection should be extended. Our measure affects the marriage usage only in so far as this protection extends to a married as well as to an unmarried child.”

The law was passed in spite of a great deal of agitation and representation, not only by the Hindu community, but by others as well. A suggestion was pressed for the consideration of our rulers that it would be perfectly consistent with our Shastras if it were laid down that sexual intercourse by a man with his own wife, she not being under 12 years of age, or in the immature condition preceding the first appearance of puberty, is not rape. It was also pointed out that on the attainment of puberty certain social customs are observed and religious rites—those of *garbhadhan*—performed, and at these the families of the bride and the bridegroom join, and so the matter would become known to both the families and also to their friends, the proceedings being considered so important as to deserve to be indicated by the popular

phrase "second marriage." Hence if the legislature found their way, instead of putting down the numeral twelve as the protected age, to fix the occurrence of the event that leads to *garbhadhan*, as the time after which the protection should cease, the Hindu would accept the law without a grudge, and rejoice at the vindication of the principle of Hindu law seldom appreciated by its opponents, under which what was intended to be created an offence, had been declared to be a sin ages ago by the divines of Hindu India.

The principle upon which the innovation was based was not, we regret to observe, carried out in its integrity as regards either unmarried or married girls, as it omitted to provide for cases that might occur between the age of twelve and the first appearance of puberty, which period remained as unprotected as that between 10 and puberty had been before, although it must be admitted that the possibility of evil has been very much reduced. Yet it must be stated that it would be nil if puberty were acknowledged as an alternative for the age of twelve.

VII.

MARRIAGE III.

On the basis of the greater adherence to the discipline of their religion, the Hindus may be divided into two general classes, the distinction between whom was widest in olden times, but which in later days has been so modified as to result in a fusion of the sections composing them, many of the lower orders having by reason of improvements made by them in their practices and observances raised themselves to a position where they meet on even ground with those who had ever before been their superiors, but who have become degraded in their manners and habits and are little fitted to maintain their once honored rank any longer. We allude to *achara* and *vyavahar* as being the criteria deciding the degree of difference between the classes. In ordinary language the former signifies the observance by one's self of the restrictions and obligations of the religious laws, and the latter the conduct and behaviour of one towards another regulated by the same laws. But this is neither the correct connotation of, nor the classical difference between the two. The *Sabdakaipadrums*

does not in giving the meaning of *ac̥hāra* distinguish it from *vyavahar*, nor does Yajnavalkya in defining *vyavahar* notice it as distinct from the other—only in the works treating of punishments to be inflicted by kings it has in relation to the special subject a special import. Be that as it may, the sum of the duties of men towards themselves, towards their relations, towards society, and towards their God, are included within the meaning of those terms; and it is a striking fact that along with the multiplication of caste proceeded the loss of *achara*: the lower the caste was, the less pure were the practices of the men; so when we go down to the very lowest ranks, we scarcely recognize them to be Hindus by their manners and habits. Purity of conduct originally proceeding from a strict obedience to the rules of the scriptures, lost its character more and more, as they came down through long ages and were extended over distant provinces; and therefore it is not unoften we find peculiar usages prevail with particular classes or in particular lands, which it is difficult to reconcile with Hindu notions. Social forces however have always been at work, and since the time that the caste system was once perfectly established, the struggle for existence and the inability to follow the rules of self-abnegation, brought on a counter-action the effect of which may be said to be almost universal. Let us not speak of austerities and Yoga—those are things of fiction now. The mere study of the shastras

is a rare feat; we have now to draw from current *achara* and *vyavahar* information to determine the merit and desirability of any course of action: and the sense of purity imbedded in the Hindu mind is their great secret fountain source. Direction is given to the stream by the Pundit with the mysterious *rootis*, and millions run to its brink to quench their thirst for knowledge on any social or religious topic. Cleanliness is ordained in all material objects and things, and purification is prescribed for both matter and mind. The *Sanskaras* are the various methods of purifying the body on different occasions and at different periods of life preparatory to the condition of a *grihi* or family man, and penances are dictated for all offences against religion and civil law.

Thus Narada begins his *Sanhita*: when people were truthful and firm in virtue, there was no *vyavahar* then, nor envy, nor spite. When men lost their pious habits *vyavahar* became extant, of which the king was the maintainer, who would punish all offenders. This was said of a period anterior to all history and traditions, which was followed by long years of Hindu rule, nearly extinguished subsequently owing to the ascendancy of the Mahomedan power in Hindustan. During this last period the *achara* and *vyavahar* of the Hindus became very extensively modified, and it is because the Hindu social and religious laws were framed with great foresight and enforced with rigour that they have survived to the present day. In those

parts of British India where the Hindu law is administered by Hindu kings and their representatives, society is in a far less advanced state than where English statesmen, lawmembers, and judges are interpreting the Shasters of the Hindus, and deciding differences between them according to law. However consistent it may be with the policy of the British Government to remodel the law of the Hindus, Mahomedans and other nationalities under its rule, and to render them into one code with such caution and circumspection as are indispensable in such an undertaking, it must be candidly confessed and openly said that not every innovation is in accord with its declarations, nor does every one bring satisfaction to the minds of the people for whose benefit the same is ostensibly intended. As on the one hand we find the adoption of the English principle of "property once vested cannot be divested" in the case of an unchaste Hindu widow, elicit a burst of Hindu feeling in meetings and assemblies and in private conversation, so on the other hand we see to our utter chagrin the prospect of a Hindu lady being dragged to prison in execution of a decree for the restitution of conjugal rights, a person whom the Hindus regard as unapproachable except by the nearest of kin. Neither the one nor the other agrees with *achara* or *vyavahar*, or with Hindu ideas of purity and its essentials.

In our last article on the subject of marriage, we explained why the Hindus do and must marry

their daughters before puberty, and also why they steadfastly adhere to that practice, in spite of many grave exceptions to the wisdom of that rule based upon considerations of advancement, freedom and comfort, which mark the higher circles of European society as their characteristics. Great evils are the outcome of this system of early marriage of females : evils whose sting causes the Hindu public to smart with agony. One of these however is preventible on the assumption that the actions of men be true to the teachings of their religious books, and self-interest submit to spiritual requirements. Not long ago India was agitated with discussions regarding the enormous expenses incidental on marriage among Hindus, and as they began with a blaze they ended in smoke, placing those concerned in the abuse in a position repulsive in the eyes of the unconcerned world, but producing no better or any salutary result. It has been shewn in the article referred to above, that payment of any consideration either by the bride-groom to the bride's father, which is a part of the *asura* form of marriage, or by the bride's father to the bride-groom, which we find in the *Prajapatya* form, is discouraged as being of inferior merit—the former positively sinful,* and the latter not recom-

* We have the combined authority of the *Saṁhitās* and the *Mahabharat* for this statement, *vide Anusasana parva*, chap 45.

Yo manushyas swakam putram bikriya dhanamichhati,
Kanyam ha jeebitarthaya yas sulkasna prayachchhati,
Saptabara mahaghorne nirayae kala sahwayae,
Swedan mootram pureshanoha tashminmurhas samasutae.

mendable to Brahmans. The Brahma form of marriage, which by its very nature is pure and superior, is said by modern pundits to be followed in the present age, but it would seem to one who considers society both from a religious and a social stand-point, that the name is used as a blind to conceal the faulty character of the negotiations gone through and terms proposed prior to the marriage, and the offer of money and other valuable presents, which really bring the ceremony within either the *asura* or the *rajapatyā* form. Social reformers ought to take it upon themselves to correct the abuse, and the task may be achieved not by a great deal of high and irresponsible talk, but by example set and necessary assistance rendered either pecuniary or otherwise. It seems that it is easier to get a price for a daughter than to offer her without it. This looks like a riddle, an absurdity, but nevertheless the fact is patent. One who would not accept of any consideration, or *sulka* as it is called, for the marriage of his daughter, attempts to make a selection of a bride-groom, and as he must marry her before puberty he has to pay to the bride-groom a certain stipulated amount of money, and has also to make such other presents to him as are settled upon before the arrangements for the marriage become complete. So he who fixes his mind on the money he expects, is always anxious to avail himself of all possible excuses for increasing the amount, and to insure himself against contin-

gencies would realize the *sulka* (सुल्का) before he offers the daughter's hand to the bride-groom. Under such circumstances, there was in former times a ceremony called दक्षिण or betrothal, but modern pundits have declared it obsolete and inoperative in Kaliyuga, although considered in the strict sense of the proceeding, the final arrangements regarding a marriage now are not in their nature materially different from it. It is however, good for society that betrothal is extinct, and that Hindus are not now troubled with the punishments entailing upon a breach of promise of marriage after दक्षिण; and it would be infinitely better if we could get rid of the hated *asura* marriage and of the undesirable *prajapatya*. If the Brahma form of matrimony were the only form of marriage among Hindus, it would be superior to the noblest example of marriage by mutual consent, and one could make bold to recommend its introduction into other societies and religions in the place of any other form that may prevail.

The other evil which proceeds directly from early marriage of girls is their early widowhood in many cases. We will not say that early marriage necessarily renders early widowhood possible, but as concealment of truth is not honest nor productive of good results, we will note that there are already a large number of widows, who have probably not known what the object of marriage is, or who have after a short period of enjoyment of the love and atten-

tions of their husbands been separated and snatched away from their embraces by the cruel hand of death. Professor Max Muller quoting the results of the census of 1881, said in his letter to the *Times* on Hindoo social reform, with reference to the number of widows then living, that "there were no less than 20,230,626 widows in India," and adds that "out of that number 78,976 were under nine years of age; 207,386 were under 14 years of age; 3,82,736 were under 19 years of age." It does not matter what exact proportion of these figures would represent the number of Hindu widows under the respective ages, as it is clear that it would be very large, for the Mahomedans and Christians and others do not disallow widow remarriage, and therefore are not likely to count among them a greater number of widows in the aggregate than the Hindus. It were certainly a fairer view of society to have a far lesser number of these females in our homes, but the doom cannot be averted. Professor Max Muller himself sees the difficulty, and with his heart full of sympathy for these ladies, but forgetting himself for the moment, suggests in rather unpalatable language that a home and a school might be established for the relief of these "waifs and strays of womankind where chance might be given them of preparing themselves for a happy and useful life." Acquainted as the learned professor is reputed to be with the shastras of the Hindus, and

therefore with the real position of widows in Hindu families, and moreover with the principle that permeates each and every arrangement in a Hindu's household; it was little expected that he would in talking of Hindu widows generally, allude to them as the "waifs and strays of womankind." Nor does that seem altogether strange, when we find him base his remark upon the impassioned words of a lady who has thrown off her allegiance to her ancestral religion—a religion of austerities and self-denial—and whose discontent with the usages and customs of the Hindus is open and defiant to a degree. It is certainly extremely painful to find that all knowledge attained with the greatest possible application and industry and care, should yield to the humours of sentimentalism so much as to be to all intents and purposes obliterated from the great mind in which the same had been received and preserved in stereotype with the metal of Sanskrit lore. The Professor says :

"Need we wonder that these young widows try to escape from their prison home? But what can they do? The only alternative before them is either to commit suicide, or, worse still, accept a life of infamy."

Is it desirable for the purpose of maintaining a point, or supporting a proposition, to make specious charges of the gravest character against an institution, upon no evidence whatever, no statistics taken,

but only on conjecture and surmise, in which the wish often supplies the argument, and facts are taken into account only so far as they bear the appearance of a justification for the inference. One side only of the picture is presented, and that the darkest. If Professor Max Muller in advocating the establishment of a home for widows confined his remarks to those only, who by reason of inferior religious training, or a greater proneness to luxury and self-gratification, or for other reasons, became homeless or destitute, no one would mind the use of the language complained of, and no right-minded man would object to these persons being trained up to the knowledge of some art, or otherwise enabled to lead an honest and virtuous career for the rest of their lives. But the griefs of Ramabai and Rukmabai upset the Professor completely. It is therefore pertinent here to make the following quotation from Mr. Justice Scott's letter on the subject of Professor Max Muller's proposal for a sight of which we are indebted to the *Statesman* in which it was published on the 21st September 1887.

"Last November a handful of us in Bombay at the suggestion of an energetic and philanthropic lady resident, took this very matter into considerationThe outcome.....was a meeting at the house of one of the ablest and most enlightened of the Hindus in Western India.....The conclusions were that such an institution is purely European and

would meet with the strongest opposition from the native community * * * * That its real utility would lie in a narrow sphere, and only cases of child-widows eager to escape from ill-treatment. *Such cases all Hindus present insisted on as being very rare. But that if the proposed home were in the nature of an asylum and were under native management, it would succeed, but only on a small scale."*

The italics are ours. Here we have what a European gentleman of high position who has lived among Hindus in India, says about the sweeping assertion and accusation of another in England who has evidently derived his knowledge only from books, letters and hearsay.

We expected Professor Max Muller would not shut his eyes to the relieving features of Hindu *achara* and *vyavahar*, to the special constitution of Hindu Society, and the Hindu family, and to the *brahma-charya* observances ordained and willingly and religiously practised by Hindu widows. The same social principle that dictates to the Hindu, marriage of a daughter before puberty, prevents him from marrying a woman who once had another man for her husband. If the idea of purity be said to be a barbarous and unenlightened sentiment, which ought to be cast off without a thought, let the Hindus be first impressed with the truth of the proposition, and husbands may be found for unfortunate widows desiring to marry again. At present the prevailing

belief is, as it has hitherto been, that the acceptance of a widow as a wife is contrary to the spirit of the Shastras and diametrically opposed to *achara* and *vyavahar*. We do not mean that in India there is not and has never been, such a practice as the remarriage of a widow, but it has always been confined to those classes only, who did not come within the social arena governed by *achara* and *vyavahar* founded on religious edicts. Such were the lower orders of people and special tribes who had no defined religion for themselves, but who borrowed from different religions and different practices of neighbouring or conquering races, their social and moral precepts such as were in consonance with their system of life and their sense of expediency and convenience. From legal decisions of British Courts in India, and from a knowledge of the fact derived from reliable sources, we are bound to infer that a form of connection between a man and a widow is formed by *punchyats* or assemblies of caste men, which is known in Bengal as *sagri* among the lower classes of Hindus, whose *achara* and *vyavahar* have deteriorated considerably. The polished European with his ideas of equality and fraternity in society, will hardly be able to realize the meaning of what has been said, but nevertheless it is a matter of certainty and daily experience, that the classes whose *achara* and *vyavahar* are more consistent with the Shastras, are considered superior to those who have seceded from them; and the su-

perior classes are looked up to with respect and deference, while the Brahman, who endeavours to act up to the rules of the *Shastras*, is revered by all—why even a *Soodra* of approved *achara* is no less praised and extolled. Under which of the two classes then of *achara* and *anachar* (practices opposed to approved *achara*) are we to place married widows and their husbands, when widow-remarriage conflicts with the *Shastras*, and is contrary to approved *achara*? Western reformers will not demur to bring them together under the same head, although the Brahman may have to go hand in hand with the *Dome*, as there appears no reason why there should be any difference between the two except that of education and wealth.

But did not Pundit Iswara Chandra Vidyasagara propound the religious law of the Hindus, and did he not show that the *Shastras* direct that a widow should be remarried? There is only one answer to both the queries, and that in the negative. Construing the *Shastras* with an object, he found himself compelled to differ from certain oriental *savants* who are reported to have said that such marriage was allowable only in the case of a *Soodra* girl who has become a widow before her puberty. If he could promulgate only this doctrine, he would gain no doubt one important point in the discussion; and if the opinion were regarded with respect by Hindus, a decisive step onward would be taken to ameliorate the condition of child-widows in India. But he 'took no middle sight' and his failure

in the matter of widow remarriage in general is marked first, by the numerous publications on the subject in refutation of his theory, meeting with not sound sense and logic in reply, but dogmatism and vituperation instead; and secondly, by the absolute rejection of his propositions by the Hindus all over India; and thirdly, by the rare instances of widow remarriage that have happened, being considered by the Hindus to be only in name marriage under the authority of the Shastras, whereas in reality they are not. Yet there need be no regret. That secret cause which shakes the colossal edifice of Hindu religion to its foundation, like the fabulous giant that makes the earth quake or rise or sink, that cause which is slowly working in the system of Hindu Society as did the hemlock through the seer's frame, that same cause will bring on all that reformation wants, and Hinduism hates, all that the subversion of Hindu society may require.

Widow-remarriage is widow-remarriage: enlightened opinion does not appreciate the difference between the principle of the widow's remarriage before puberty, and that of her marriage afterwards. If she is free to marry, let her marry in any case if she chooses,—and find a husband. But here is the difficulty among Hindus. No one who can help it, and is not tempted to do so by any prospective good, would take a widow to wife, as he considers that an impure act. The scholars who gave Pundit Vidya-sagara the first star, evidently with the inmost object

of preserving the Hindu's sense of purity, maintained that in some cases the remarriage of Hindu girls before puberty was consistent with the Shastras, and therefore they might be married by men of their class. Even this attempt at a compromise did not succeed. No one could be persuaded to believe that Parasara gave sanction to any form of widow marriage by the sloka—

*Nashtae mritae prabrajitae klibae cha patitae patau,
Punchaswapatsu nareenang patiranya bidheeyatae.*

This sloka is that pundit's authority. He renders it thus: "It is ordained in the Shastras that women may marry again in the following five cases of misfortune; when the husband is not heard of, when he is dead when he is found to be impotent, when he has betaken himself to the life of an ascetic, and when he has become *patita* or an outcaste."

We shall not launch into a detailed examination and criticism of his contentions, neither of those of the other *adhyapakas*, who are the recognized interpreters of the Shastras, but we shall pursue the subject only so far as to determine the true meaning of the verse quoted above.

Accepting for the sake of argument that the exposition of the above sloka by Pundit Vidyasagara is correct, the very first thing that strikes us as being extremely material to the enquiry, is that in the sloka no new rule has been proscribed, but a permissive precept has been referred to, the object of which reference seems clear by its being followed by a statement of Parasara,

that the woman who after the death of her husband observes the 'austerities of *brahmacharya*, goes to heaven after death like the *brahmacharees* (ascetics). Therefore read with the context, Pundit Vidyasagar's explanation would stand thus : although it has been ordained that a widow may marry again, yet the woman who does not do so, but leads a life of austerities after the death of her husband goes to heaven. There is no spiritual blessing alluded to in the first case, whereas it is declared a positive virtue for a widow not to marry again. The *bidhi* or injunction in favour of widow-remarriage in any case thus vanishes. Parasara directed the discontinuance of such quasi-marriages as are referred to in the sloka *nashtas mritas* &c, and the reason was that the hallowed systems of marriage had been so appreciated, and the virtues of women were held in such high esteem at the time, that it was thought desirable, and therefore it was peremptorily declared that all those methods which had nearly disappeared then, but which had been in vogue long antecedent to that period, of raising offspring otherwise than by their husbands, should cease to have operation.

But why was the sloka *nashtas mritas* &c. recited at all, if it was not intended to serve some important end ? The purpose was an exceedingly important one, in fact more so than Pundit Vidyasagara has been able to see in his eagerness to apply it to his own purpose. Parasara is reputed to have laid down the

special laws of the Kali Yuga,* and therefore when he wanted to say that *brahmacharya* was the life a widow ought to lead—*Sahamāraṇa* or *Suttas* being left out of the question,—he distinguished the virtue of faithfulness to the deceased husband from the practice spoken of in the said sloka, according to which under certain conditions a *pati* (or protector) could be taken by a widowed woman. It is very noticeable, the more so as the point escaped the *adhyapakas* who took part in the discussion, that Parasara quoted the sloka as it is found in Narada's *smṛiti*, in the 12th chapter of which the subject has been treated in its several bearings pretty fully. Narada, the priest of the gods, received a code of laws from Manu, consisting of a lac of verses, and abridged the same to twelve thousand slokas, which he communicated to Markandeya *rishi*. The latter in his turn reduced them to eight thousand slokas and taught them to Bhargava *rishi*, who again compressed them into four thousand,* which are studied by men. The work is divided into *prakaraṇas*, the ninth of which treating of *vyavahara* had been originally rendered into verse by Narada, and these are now comprised in the seventeen chapters of Narada

* *Kṛtsatu manabodharmaśāstraṭṭayāṅ gautamas smṛitas,*

Dvaparāśaṅkhyālikhitas kalau parasaṛa smṛitas.

21 and 22, chap. I., Parasara Saṁhita.

Smṛiti. The 38th sloka of the chapter alluded to above is as follows .

Aṣṭau bibhaṣāḥ, bhāṣaṁ saṅkārārthaṁ prakāśitāḥ,
Brahmaṣṭa prathamastasyaṅg prajāpatyastathāparaḥ.

It recites that there are eight forms of marriage, of which the first is Brahma, and Prajāpatya another, and is followed by other *slokas* down to the 43rd, describing all the eight. We come then to the 44th and 45th *slokas* which throw a flood of light upon this part of our subject, and reveal to our eyes the true position in Hindu society of a woman who has taken a second husband :—

Aṣṭaṅg tu dharmasohattaro brahmanādyas samudāhṛitas,
Sādharanasyadgandharbastrīyaḥ dharmantatas paraḥ, 44.
Parapurbastrīyas tṛtīyaḥ saptaḥ prokta yathākramam,
Punarbhūstribhidhastasyaṅg swairīṇeṣu caturbidha, 45.

Of these eight forms of marriage, the four beginning with Brahma are धर्म *Dharma*, or in other words they are sacred forms, the fifth Gandharba is neither sacred nor sinful, but the last three are positively vicious. Thus we know the relative ranks of the women who are married under the above forms, but there are seven classes of other women who are पुरषुर्षः (parapurba), of whom three are called पुनर्भूः (punarbhū) and four स्वरिणी (swairīṇī). It is clear therefore that *parapurba* women are not ranked among the women married under the forms recognized even in the very earliest times, and therefore certainly not under the three forms prevailing in the present. The relevancy of this discussion will now

be manifest by a reference to the next following sloka, which reads as follows :

Kanyaibakshata yonirya panigrahana dooshtetas,
Punarbhū prathama prokta punaḥsanskaramarhati.

There is a different reading for the last part of the second line of this couplet, but interpreting it as it stands, we find that a girl under the age of ten years in whom menstruation has not appeared, but the sanctity of whose person has been blemished by her hand having been once accepted by another man, is a punarbhū of the first class, and deserves to be re-married; and from sloka 53,

Punarbhūbang bidhistwaesha swairineenang prakoerttitas,
Purbapurba jaghanyasang sraeyaseetuttarottara;

we learn that the widow referred to in the 46th sloka is the basest example of a *punarbhū*, and we learn also what the rank of the offspring would be from the sequel. The conclusion we present for the consideration of the public, upon a rendering of Narada, Pundit Vidyasagar's chief and in fact the only authority, therefore is that a widowed girl is a *punarbhū*, and is an अनाथी *anya stree*, not coming under the category of married girls. The practice of having such *anya stree*, it may be noted here, prevails among the Dosad, Dom, and other classes, that occupy the debatable land between Hinduism and mlechchhaism. Here looking into the sloka—

Nashtae mritae prabrajeetai kleebai cha patitae patau,
Punchaswapatsu nareenang patiranyebidheeyatae,

which is the 97th of the chapter with scrutiny, we discover in अन्यापतिः (anya pati) the description of the husband or-protector a woman may take if she is a widow, or under certain other circumstances narrated in it. This expression in regard to men being husbands but not by the marriage forms, corresponds with the use of *anya stree* in reference to 'Women who have not been married according to the prescribed forms, but who have sought the companionship of men for the purposes of protection or livelihood, or for generating offspring. We will however not deny that this provision of the sages was of immense good to ancient society, when adultery and open prostitution first began to be deprecated and considered extremely heinous.

The view taken above of the position of the re-married women upon a construction of the verse quoted in favour of the question, is supported by the sloka next following, and the sequel, which have been quoted by Pundit Vidyasagara to shew further authority for his theory. With all due deference to him however, we fail to see how he could expect to succeed, when the words अन्त्यासमस्रयेत् (anyang samasrayet) are used to indicate, what a woman may do in the event of her married husband becoming नष्ट (nashta,) that is to say, of his leaving or abandoning her, and of his not being heard of at all. अन्त्यासमस्रयेत् (anyang samasrayet) in classical language means that "the protection of another man may be

“taken” which is certainly very different from marriage, but signifies what is often in these days among low class people expressed by *করে নিলে* or *হাত ধরে নিলে*, literally meaning taking another or laying hold of the hand of another, but practically meaning taking the protection of another man. It is not needful to discuss whether this taking of the protection of a man unhallowed by religious benediction, must be based upon the principle of *নিয়োগ* or appointment, which practice was once in vogue according to religious law but is extinct among the higher ranks, although virtually it is alive among the classes of people with whom *sagai* or *sankha* is not a dead institution, and whose *panchayets* by their orders supply the want of scriptural authority in the matter. From a social point of view, the observance of some special ceremonial of *নিয়োগ* (*niyoga*,) would not be a serious impediment to widow-remarriage, but would further its cause and obviate the need of discarding all pride of caste and descent and their inherited and inborn sense of purity of *achara*, by enlightened Hindus who wish to come forward to give currency to the reform,

VIII.

MARRIAGE IV.

Narada, who is supposed by some to be the great authority promulgating the remarriage of Hindu widows, is the author of a code of laws regulating the conduct of men and women as members of society, and prescribing punishments for offenders against the same. The king is described as having the power to enforce the sanctions, and to preserve the peace, and maintain good government. An offence against the said laws is called *dosh* (दोष) in his *smriti*, for the trial of which rules of evidence and procedure have been laid down to prevent failure of justice, and to enable the king and his officers to arrive at the truth in the hearing of cases. Adultery is an offence for which the wife is punishable either with death, or in the event of the husband not inflicting it, with misery in his house, the relation of the details of which the delicate reader may be spared. The wife is bound to be chaste all over the world, but among Hindus it is considered a virtue for the widow also to be faithful to the husband's bed all her life. There are certain

instances however recited in Narada, in Chapter 12, in which this offence will not be considered to have been committed, nor any of the offences therein described for which a wife is punishable with expulsion from home or the village, or with confiscation of property or other rights. The rights of the married wife are recognized and established by the provision (v. 95), that if she be the mother of children, she shall be restored to the enjoyment of her rights as a wife by the king, who shall inflict severe chastisements on the rebellious husband. The husband however has certain very important disqualifications owing to which the wife is declared to have been, in the golden days of yore, legally free to take the protection of another man, though not according to the marriage forms, but under the direction of the friends (*bandhus*), better understood in these days as the *punchayet* of caste men.

When (α) a woman has been married by a man disqualified to be a husband without the fact of the disqualification being known at the time of the marriage, if she herself be not a disqualified wife and chaste, she ought to be made over to the protection of another man by her castemen if there are any, or she ought to secure such protection herself if she has no such men to help her (v. 96.)† This appointment

* Anukoolamabagdustang dakshang sadhweem prajabateom,
Tyajan bharyamabasthapyo rajna dandaena bhooyasa. 95.

† Ajnatadoshenorha ya nirdosha nanyamasrita.

Bandhubhis sabhiyoktabya nirbandhus swayamasrayet, 96.

by the castemen is called *nivoga* निवोग. According to the same rule (b) a married woman may seek the protection of a man other than her married husband, when the husband (1) is not heard of and has gone away (2) when he is dead, (3) or has adopted the practices of an ascetic, or (4) when he has been ascertained to be wanting in his manly power, or (5) when he is a *patita*, outcaste, or religious outlaw (v.97)*

In the case of the husband not being heard of at all, certain periods of time are to be allowed to pass to await his return, certain other periods when it is rumoured that he is alive, after the expiration of which the woman who is unable to lead a lone life may take the protection of a man other than her married husband (v. v.98—100)† The subject of the crimes of women is concluded with the next sloka (v. 101), in which it is said in quite intelligible and unmistakable language that the above rule is laid down for the propagation of offspring, and it is only for this reason that women once married are allowed by the king to find a supporter, and that such conduct is not considered a crime.

* *Nastae mritae prabrajitae kleebae cha patitae patau, Pūñchāhvaptau nārēnang patiranyo bidheeyatae, 97.*

† *Ashtau bārsanyudikhyota brahmanee proshitam patim, Aprasoota tu chatwari paratonyang samasrayet, 98. Khatriya shat samastiheda prasoota samatrayam, Vaisyas prasoota chatwari dwae bārshee twigarabasaet, 99. Na sudrayas smritas kaśa esha proshita yoshitam, Jobah sruyamanetu syadesha dwiguno bidhis, 100.*

Following the line of argument already advanced, we find that women of the classes above indicated come under either the one or the other head of the two-fold sub-divisions of (पारपुत्रा) *paraputra*. A married woman coming under section (a) exactly answers the description of a *punarbhū* of the superior rank found in sloka 48. But widows referred to in section (b. 2) divided as they are into three classes, (1) child-widows, that is, those who have not arrived at puberty, (2) widows, who have had no children, (3) widows who have had children but none of whom are alive at the time when they desire to find association with male friends, come under other and different classes when they form such connection. It does not appear however that any mention whatever has been made in the *Shastras* of the questionable intimacy which a widow with children may contract with any man, be he of her own or of a different caste.

The widows of the second and the third denominations come into contemplation under verse 98, according to which a widow may take the protection of a man after a certain period if she has never been confined, but otherwise that is, in the case of a widow of the third class double that period is prescribed. Such widows in regard to their position in society, are placed in order of merit under the first second and third classes of (शरिणी) *Sharinies*, as follows:—

Mritas bhartari gangapraptandebaradeenapasya ya,
Upagachchet parang kamat sa dwiteya prakeertita, 50.

Prapta dēśaddhanakrota kṣatpipasatura tñ ya,
 Tabahamityupagata sa triteeya prakertita, 51.
 Deśdharmānāpashya stree gurubhir ya pradēyate,
 Utpanna sahasanāsmāi antya sa swairinee smrita. 52.

She who being the subject of an offence regarding her chastity is given away to a man by the spiritual adviser without the religious laws of the province being attended to, is superior to the rest. Next in rank is she, who is received into protection by a man whose favour she seeks when she is driven to that extreme by hunger and thirst, or when she is bought with money or brought from a different country. She who, being actuated by lust and not submitting to the embraces of her deceased husband's brother or others as ordained in spiritual law for the raising of offspring at the widow's pleasure, seeks the attentions of a stranger, belongs to the lowest and the most reprehensible class. These are three out of the four classes of *swairinees* enumerated by Narada; the last being a woman, who whether she has had children or not, has lustful intimacy with anyone other than her husband during his life-time for the satisfaction of her carnal appetites.

Stree prasootaprasootabapatyabeba tu jeebati,
 Kamad ya sangrayedanyam prathama swairinee tu sa, 49.

So Narada, the great the only authority pointed to as giving widows the right to re-marry, brings those who have taken to men under the same category with married women who during the lifetime of their husbands, for no reasons, allowed by society or religion,

but for the pleasures of the flesh, associate with men and commit the most heinous offences subversive of society. The distinction drawn between the four classes is one of degree only, of mere comparison so far as concerns their relative positions, but not one of principle implying the superiority in nature and character of one to the other. This is probably to be regretted in view of the exceeding weakness of mankind in the present age, and their inability to deny to themselves the comforts and pleasures which have such charms for them !

The case of child widows remains to be considered. Sympathy for them is found in every breast—poor things ! The charge is untrue that she is treated badly, but the very condition of a widow in Hindu society is one of asceticism, and there is no helping it at the present moment, although indeed there seems to be hope in the future. Child widows come within the purview of the following sloka :

*Kanyabakshatayonirya panigrahana dooshita,
Punarbbhus prathama prokta punas sanakarramarhati, 48.*

Narada found that the Hindu shastras would not prevent a king from allowing a union to take place between a child-widow and a man of her class, although the religious teachings were otherwise, and therefore taking advantage of the peculiar circumstances under which that state of society came to exist recited, with his heart over-flowing with sympathy for the unhappy creatures, that child-widows deserve purification by

wedlock. A punarbhu therefore is distinguished from a *suairinee* on the one hand and a wife married according to the approved forms on the other. But notwithstanding this there is at any rate some recognition found in Narada of the union of a woman who is a child widow with a man of her class; and the reason for this is evident. The idea of purity, as has been elsewhere observed is the living principle of the system of Hindu society; and as the purity of the person of the child-widow is preserved by her not attaining to puberty during her husband's life-time, notwithstanding that on the score of religious necessities strong objections might be raised against the second union, Narada found that a case had been made out for him to declare that it would be no offence against the laws of the king and of society to unite a child widow with a man of her own or a higher class in some sort of wedlock. We find therefore some justification for the opinion published in Pundit Iswara Chundra Bidyasagara's brochure on the remarriage of widows, as proceeding from the most notable professors of Hindu law and teachers of the Hindu religion, in which they have said, that a child widow of the Sudra caste may be married a second time. It cannot for one moment be supposed that they ever said that that was quite consistent with the precepts of Hinduism, but they could allow such a connection to be made only for the sake of the society in the condition in which it has come to be.

just as Narada would, in the province and at the age, and for the people, for which and for whom he dictated the civil laws of his code.

The 48th verse would appear to the general reader to present some difficulties. It would seem as if the *punarbhū* of the superior class is a widow who is given away to a man who is her *sabarna* and her father's *sapinda* by her friends or kinsmen, whereas a child-widow and certainly a purer person than the other, who is said to deserve being taken through the ceremony of a second marriage, is reputed to be inferior in rank to her. But in point of fact there is no inconsistency, as under verse 48, no permanent union is contemplated, but only an appointment (निराश्रय) peculiar in its nature for the purpose of raising offspring, which has been forbidden in the present age, and is quite a defunct institution now. This appointment might take place as well when the husband was alive as after his death, in the one case at his request and with the permission of the spiritual adviser, in the other at the desire of the widow and under the direction of the kinsmen, in the first instance in favor of the husband's brother, and in his absence in favor of a *sabarna* and *sapinda* ;

*Asatya debarasu stree bandhabairya praddeyate,
Sabarnaya sapindaya sa triteeya prakeertita, 48.*

But says Narada :

*Sa cha tang pratipadyata tathaiva putrajanmatas,
Putra jatao nibartaeta sankaras syadatonyatha. 51.*

Kula tadabaseshas hi santanartham na kamatas, 53.

The object of the appointment is to raise a son to the husband in order that the line may not become extinct. Manu supports this view in slokas 59 and 60 of chapter 9.

Debaradba sapindadba striya sammangniyuktaya,
Prajaepsita bigantabya santanasya parikshaye,
Bidhabayang niyuktastu ghritakto bagyato nisi,
samutpadayet putram na dwiteeyam kathanchana.

It is not necessary to make further quotations on the subject for there does not seem to be the least contention regarding the nature of (निवर्त्य) *niyoga*, but we cannot refrain from introducing here certain slokas from Manu, which shew in what light the practice was viewed even at his age :

Nodbhikaeshu mantraeshu niyagas keertatae kwachit,
Na bibaha bidhabuktam bidhaba bedanang punas, 65.
Ayam dwijairhi bidwadbbhis pasudharma bigarhitas,
Manushyanamapi prokta baenae rajyang prasasati, 66.

Tatas prabhriti yo mohat prameestapatikam streeyam,
Niyojayatyapatyartham tam bigarhanti sadhabaa. 68.

Sir William Jones translated these verses thus :
Such a commission to a brother or other kinsman is nowhere mentioned in the nuptial texts of the Vedas, nor is the marriage of the widow even alluded to in the laws concerning marriage (65). This practice fit only for cattle is reprehended by learned Brahmins ; yet it is declared to have been the practice even of men, while Baen had sovereign power (66). Since his time the virtuous condemn that man, who through delusion

of mind, directs a widow to receive the caresses of another for the sake of progeny (68).

Marriage is not contemplated in verse 48 of Narada, but only *niyoga* which would not affect the position of the wife very much where it was allowed. The word *sapinda* used in reference to a person to whom the woman may be given renders the point clear, as under no *shastras* whatever, not even in Narada, who recites the objectionable manners and customs which find no room in other religious works, any authority can be found for a marriage between *sapindas*, man and woman, the former of the same *gotra* with the latter's father, and who could offer oblations (*pinda*) to the manes of the same ancestors under the rules of the *sraiddha* ceremonies; whereas we have Manus saying in verse 5 of chapter 3, that "she who is not descended from his paternal or maternal ancestors within the sixth degree, and who is not known by her family name to be of the same primitive stock with his father or mother, is eligible by a twice born man for nuptials and holy union."

Asapinda cha ya maturasagotracha ya pitus,

Sa prasasta dwijateenam darkarmani maithunae.

So too Narada, cited by Raghunandan in his Udbahatatwa :

Asaptamat panchamachcha bandhuvyas pitrimatritas,

Abibahya sagotra cha samanaprabara tatha.

Probably there is no room for doubt now, as the authority referred to in the sloka *nastitae mritae* &c., for the remarriage of child widows, is found in sloka 46 of

Narada of the chapter which we have been examining, Yet it seems to be the most charitable and the most liberal construction that may be put upon the *sloka*, which translated reads thus—she is said to be the first *punarbhū* and deserving of marriage, who is a girl not arrived at puberty, but who has received a stain by her hand having been accepted by a husband. To say that this is a reference to a girl whose husband is dead, is to state a proposition very much opposed to the spirit of the context, wherein the other *punarbhūs* also are described : but this discussion is beside our purpose. The suggestion however recurs to one's mind with great force that the liberty given in the *sloka* to a girl to get married to a man after her hand has once been accepted by another, is intended to meet the case described and provided for in the following lines from the *Mahabharat*, *Anusasana parva* :

Naikanto dosha ekasamintada kenopapadyatae,
 Dharmato yang prayachchanti yanchakreenanti bharatas, 2427
 Bandhubhis samanujnatae mantrahomau prayojayet,
 Tatha siddhanti tao mantra nadatyayas kathanichana, 2428.

Should it so happen that any one other than a kinsman of a girl give her away in marriage, and her hand be accepted by the bridegroom, the kinsmen notwithstanding may marry her to another, and the marriage would become valid and irrevocable when offerings have been made to the fire according to the rite of *homa*. Bearing in recollection the fact that, in the *sloka* under consideration from Narada's *Smṛiti*,

there is no indication that the girl referred to is a widow, and in view of the circumstance that *pani-grahana* or acceptance of the hand does not complete the ceremonial of marriage, we are afraid that the application of the permissive text in favour of a second marriage becomes strict, and must be confined to the case cited above; and only remotely if at all, it would extend to that of a widow not arrived at her puberty, by putting upon it the most liberal construction that the sympathetic heart suggests.

But it is clear that by virtue of verse 50 of Narada himself, a widow passing through the so-called ceremony of marriage, is placed among the class of women described therein and the context as *swairinees*. If therefore the legislature legalized widow-marriage * it was a step highly necessary in the cause of progress, there being no satisfactory argument in favor of such marriage being consistent with the shasters, and the cultured people, specially those belonging to the higher castes not desiring to go through the process of *nica* or *sagai* marriage, although in respect of its validity or legitimate character no legal sanction was necessary, and it would be perfectly a good form when the kinsmen gave their permission to its celebration. This form is probably justifiable under the 50th verse of Narada, under which evidently Pundit Vidyasagara did not desire that the higher ranks of society should come. All efforts therefore, to establish that widow

* Vide Act XV. of 1856 (G.G.)

remarriage is in uniformity with the principles of Hindu religion having proved futile, it is idle now to claim the authority of religion for such marriage validated by the law; but should the community among whom instances do happen allow and approve of the same, there remains no serious difficulty to encounter. ~~We~~ are afraid we are begging the question. The paucity of such instances is an open secret, and we cannot but attribute this to the reluctance on the part of Hindus to marry women who once had other husbands. The cause of progress would perhaps not have suffered so much had the means of popularizing the system been conceived in a proper spirit. When Brutus objected to take Cicero into confidence and ask him to join the conspiracy for the assassination of Cæsar, he gave it as his reason that Cicero would not desire to further a design which did not originate with him, and in the accomplishment of which he would not gain the sole credit. The same idea seems to have actuated the reformer in taking the bold course of advocating the introduction of widow remarriage into Hindu society in its widest and most general form and of rejecting the very wise suggestion and the deliberate opinion of the learned *adhyapakas*, who recommended the remarriage of a Sudra child-widow before puberty. The mischief was done, and even child-widows in Sudra families are now doomed to suffer for the fault of the ardent enthusiasts who would at once get to the top of the ladder without

ascending the lower rungs, and would rather not succeed at all than achieve their object by slow degrees. Nothing is a more damaging mistake than the adoption of extreme principles in matters of improvement, reformation and civilization in Hindu Society.

One great difficulty to contend against in the matter of the remarriage of widows generally and of child-widows in particular, is the insistence that the gift of the daughter must be made by some body having under the shastras authority to make it, and that such gift can be made only once, *sakrit kanya pradecyatae*; so that when a father has once offered his daughter to a bridegroom, and she has been accepted as a wife, his dominion over her ceases, and she becomes a member of her husband's family, and takes his *gotra*. A widow therefore desiring to marry under the authority of the legislative enactment must marry of her own free will. This is not recognized in the marriage forms—not even in the *gandharba* of old, not to speak of the disuse of this, and the extinction of all other forms save the Brahma, under which the presentation of the bride-groom according to the *Sampradana* ceremonial is a *sine qua non* in marriage. Bhavadēb, the great authority in matters of religious ceremonies, divides the entire process of marriage into two main parts, first the *Sampradana*, and *Panigrahana* the second. Usually in marriage among

Brahmans the *sampradana* takes place in the bride's house, and the *panigrahana* in the bride-groom's, unless for special reasons this be found inconvenient. In Sudra marriages all the proceedings are gone through in the bride's house. The *sampradana* is preceded by the reception of the bride-groom according to the rites of the *archana*, and after the *baran* is performed and presents are made, formal *bishtara*, *padya* and *argha* are offered. The bride-groom is now supposed to have taken his seat and washed his feet, and been honored with due worship. He is then requested to wash his face according to the process of *achmana* and to accept *madhuparka* for his drink. The bride-groom then formally cleans his mouth, and *sampradana* follows. The father of the bride recites the day and the month according to the Sanskrit calendar, and the names of the bride-groom, his father and grand-father together with their *gotra* and other particulars necessary for the identification of the bride-groom, as also the names and the *gotra* of the bride, her father and grand-father, and makes a gift of the girl to the bride-groom who accepts the offer. The bride is not yet the wife and the marriage is not completed. Two ceremonies follow: *Panigrahana* and *Homa*. The former process makes the couple man and wife, and the latter gives the religious sanction to the wedlock. After a series of ritualistic *mantras* and ceremonies, we come to the *saptapadigamana*, wherein the bride is put before the bridegroom, and

both take seven steps together in the order they stand. The first step of the bride is intended to secure blessings and prosperity to the bridegroom, the second health and strength, the third religious acts and piety, the fourth happiness and enjoyment, the fifth possession of animal-wealth, the sixth riches, and the seventh the advantage of having competent persons to help and officiate in the performance of religious rites. After having resumed their seats, the bridegroom desiring to have the bride as his partner in life addresses her as follows : "Be you my love and constant companion as I am and will always be a friend to you. Let not women cause a breach in our friendship, but let women who truly wish you well and render you good services be intimate with you." Thus the bridegroom becomes the husband and the bride the wife, and the people present at the marriage are invited to be witnesses to the proceedings, and the husband requests them to see his newly married wife, and to pronounce their blessings on her : further *vedic* rites follow and the entire ceremonial of marriage is concluded.

But notwithstanding the necessity of a gift of the daughter in marriage, it is expressly laid down (Manu, 9ch. v.90), that a girl who has not been married before completing the age of twelve, is free to marry of her own accord, after reference to the king, which at the present time may probably be effected by registration. It would therefore be a prudent course

for our reformers without endeavouring to force the system of widow marriage in general upon Hindu society, to advocate only the marriage of child-widows upon the strength of the Sloka (46) already quoted, interpreted to meet the requirements of such marriage; and not to allow all the energy employed in the discussion of this momentous question, and all the classical learning brought to bear upon it, to be lost and wasted by an impossible attempt like steering between Scylla and Charibdees of fabled note; for what else is it when the struggle is against the strong current of Hindu religion which has flowed for centuries and centuries overthrowing all obstacles, and carrying with it a deposit of customs approved and accepted.

Let us see. A girl is married before ten, and she is given away by her guardian whoever he be. She becomes a widow after *panigrahana* contemplated in the said *sloka* (46), but before she has attained puberty. Now because a Hindu is not allowed by the *shastras* to cohabit with his wife who has not arrived at her puberty, and towards whom the ceremony of *garvadhana* has not been performed by her husband, this is quite a safe period during which the Hindu mind is able in spite of all its prejudices to appreciate the desirability of a second marriage for the girl. The Hindu heart may be prepared not with much difficulty to accept the reformation suggested by the proposal of such a marriage, for the same

reason for which in the case of the husband being discovered to be void of masculine powers, the wife may be allowed to marry again. This argument and arguments like these, will doubtless weigh with the father and other relatives of a child-widow, and will probably be acceptable if advanced in the right spirit and in a proper way at the present time: why, the Pundits themselves, reckoning among them many of the best and most erudite in Calcutta and its environs, some years ago recommended the re-marriage of a Soodra child-widow. It was in an evil hour this idea was abandoned by those whose zeal led them to urge the most impracticable proposal of widow-remarriage generally. None would regret this so much as the Hindu himself who is willing to allow the re-marriage of child-widows when it appears to be consistent with the shastras and not of a very objectionable character in its incidents. A remarried child-widow is a *punarbhū*, and so are those referred to in verses (47) and (48)* who were allowed to be in their families as respectable ladies without any religious or social stigma upon them. Therefore it is not difficult to conceive that if the leaders of Hindu Society were taken into confidence and presented with an opportunity of viewing this matter in the light in which it is here put, they would be able to find their way to inaugurate the reformation so heartily desired by all well-wishers of womankind.

* Kawmarang patimutarijya ya twanyang purushang arita,
 Punas patyugrihṇaniyat sa dwiteeya prokeertita;
 Agatsu daebaraesku stree bandhabairya pradeeyataa.
 Sabarnaya sapindaya sa triteeya prakeertita.

IX.

THE SANCTIONS.

A discussion of the ordinances relating to excommunication, or loss of caste, is of serious importance and intense interest, not only to those who find themselves within the line of the rules of Hindu Society; but to those also who in some manner or other have passed out of that pale, and have not connected themselves as yet by any ties with the civil marriage or any other movement. To those also, it will be peculiarly helpful, who by reason of their position as the ruling body have at times to consider what best suits the erring Hindus, and what should in the interests of sound morality be insisted upon for their benefit, nearly in the same way as the healers of man's physical nature have to ponder and decide upon the treatment of the flesh without much regard for the likes and dislikes of the ailing. This is our apology for entering into the discussion in the hope of being able to come at the truth: a visible darkness threatens to envelop orthodox society, and a few sparks induced from the fountain source may serve in some measure to illumine it. The popular belief is that the least divergence from the ordinary course of

observances entails loss of caste irretrievably. Whenever the matter comes up for consideration in any form, so much narrowness is exhibited on one side and agnostic liberality or heterodox, pertinacity on the other, that the cause both of social union and of religion gets fatally injured. This is indeed to be regretted. If in any discussion, the object is lost in persistent advocacy of preconceived opinions, the time and energy spent are simply wasted. The triumph of an individual or of a clique is very often the end kept in view by partisans, and the debate ends in self-assertion only. Yet be it said that opinions honestly formed and expressed, sometimes become so divergent for really substantial reasons that agreement becomes well nigh impossible. Happily this does not occur in any large number of cases. There is however little room for doubt that in all cases it becomes the duty of those interested to reconcile the differences reasonably, and endeavour to bridge over and not to widen the gulf—and this is not the opinion of an English-speaking Babu prone to run down into declivities through inability to climb the steep Parnassian peak of Shastric lore, as the quotation made with general approbation by Raghunandan himself, the famous author of the modern Smritis, will show.

Kacchalang sastramasritya na kartavyo binirayah,

Yuktiheena viccharaetu dharmahani prajayata.

IX.

THE SANCTIONS.

A discussion of the ordinances relating to excommunication, or loss of caste, is of serious importance and intense interest, not only to those who find themselves within the line of the rules of Hindu Society, but to those also who in some manner or other have passed out of that pale, and have not connected themselves as yet by any ties with the civil marriage or any other movement. To those also, it will be peculiarly helpful, who by reason of their position as the ruling body have at times to consider what best suits the erring Hindus, and what should in the interests of sound morality be insisted upon for their benefit, nearly in the same way as the healers of man's physical nature have to ponder and decide upon the treatment of the flesh without much regard for the likes and dislikes of the ailing. This is our apology for entering into the discussion in the hope of being able to come at the truth: a visible darkness threatens to envelop orthodox society, and a few sparks induced from the fountain source may serve in some measure to illumine it. The popular belief is that the least divergence from the ordinary course of

observances entails loss of caste irretrievably. Whenever the matter comes up for consideration in any form, so much narrowness is exhibited on one side and agnostic liberality or heterodox pertinacity on the other, that the cause both of social union and of religion gets fatally injured. This is indeed to be regretted. If in any discussion, the object is lost in persistent advocacy of preconceived opinions, the time and energy spent are simply wasted. The triumph of an individual or of a clique is very often the end kept in view by partisans, and the debate ends in self-assertion only. Yet be it said that opinions honestly formed and expressed, sometimes become so divergent for really substantial reasons that agreement becomes well nigh impossible. Happily this does not occur in any large number of cases. There is however little room for doubt that in all cases it becomes the duty of those interested to reconcile the differences reasonably, and endeavour to bridge over and not to widen the gulf—and this is not the opinion of an English-speaking Babu prone to run down into declivities through inability to climb the steep Parnassian peak of Shastric lore, as the quotation made with general approbation by Raghunandan himself, the famous author of the modern Smritis, will show.

Kaebalang sastramasritya na kartavyo binirnayah,
Yuktiheena vicaraetu dharmaham prajayatae.

"No decision ought to be arrived at upon the basis of texts alone, as a discussion that does not appeal to reason is injurious to religion and virtue." If, therefore, a leading Mahamahopadhyaya of the time asserts that green is yellow, and in support contends with complacency that that is what he has learnt, and would not listen to argument to convince him that yellow is a prime colour and green a compound, and that to get green, you must mix yellow and blue, or that to arrive at a correct conclusion you must construe Scriptural texts with the help of reason and common sense; all attempts to find out the true interpretation of the Shastras would be at an end, and dogmatism would at once prepare the way for the ruin of their cause and its neglect at the hands of the sensible portion of the community.

In different parts of India occasion often arises, and people often discuss, and wonder as they discuss what can the injunction of the Shastras really be about one's going out of India, by sea or by land, into territories where the Hindu mode of living does not prevail, and where, if the Hindu even cooks his own food, he is liable by reason of other causes to commit offences against his religion and his caste. Will he be a sinner and an outcast? Will not any form of penance cure his sins and absolve him? Penance or no penance, those with progressive ideas on the point and who have the courage of their convictions, or who find their interests at stake, without waiting to listen

to the imprecating Pundit, get through their own business somehow. Those, again, who hold to the opposite view, or who through spite or otherwise desire that caste should be exclusive in the extreme, place the bald Brahman with the palm leaves in front and attempt by dint of numbers or the din of babble to overcome their adversary. So both sides get on, but the Shastras remain unexplored and unvindicated. To the civilized world unconcerned with their teachings, they remain a mass of crude doctrines fit for the savages of olden times and denizens of jungles; and to the orthodox millions they remain a sealed book of which the family priest, however innocent of their meaning, continues to be the only expositor.

We will not advance dogmas for acceptance. But we will endeavour to bring satisfaction to those minds that nobly desire to find out where the real solution of the mystery lies, and in what way it can be truly unravelled. The question of sea-voyage being in its nature a simple one, we shall go into it later; but the eating of forbidden food which is an essential part of that subject and which ought for diverse reasons to be disposed of first, we shall take up at once. For the purpose of brevity we use the expression forbidden food to mean all food which has been, by reason of its own nature or quality, interdicted, as also all food which having been cooked or touched by a non-Hindu comes within the interdiction. Beef and intoxicating liquors head the list, and rice cooked, or cooked rice

touched, by a non-Hindu or a fallen Hindu, comes within the same category. Although we cannot in this paper diverge into a consideration of the reasons for the rule, it is yet but right to indicate that the nature and quality of the articles of food mentioned first, justify their disuse in India; while the system of caste, good or bad, requires for its protection the disuse of food touched by one who is not a Hindu or is at best fallen in the eye of custom and religion. The disuse of forbidden food is maintained by the sanction of penances varying in their character directly with the strength of the interdiction. The degree of the offence involved in disobedience is determined as it falls within one or other of certain classes.

*Amaedhyaracto gomansam chandalanyamathapi ba,
Yadi bhuktantu bipraena krichchhrang chandrayangcharact,
Parasara, 11 ch. 1.*

"If unclean food, or beef, or food offered by a Chandála be taken by a Brahman, the rite called Chandrayana should be performed."

*Yadi bhuktantu bipraena ajananadapadapi ba,
Jnatwa samacharet krichhram brahmakoorchantu pabanam.
Parasara 11-5*

"If eaten by a Brahman unwittingly he should when he comes to know of it, perform the purificatory krichhra of Brahmakoorcha."

There is, besides, a comparison of the demerits of actions established, and appropriate penances and

punishments are ordained by reason of the presence or absence of intention in the doing of particular acts.

Akamatañ krite pape prayaschittam bidurbudhah,
Kamakara kritepyahuraka srutinidarsanat.

"The learned consider expiation as confined to involuntary sin; but some, from the evidence of the Vedas, hold it effectual even in the case of a voluntary offence.

Akamatañ kritam papam bedavyasena shudhyati,
Kamatastu kritam mohat prayaschittoiyh prithagbidhoih.

"A sin, involuntarily committed, is removed by the study of the Scriptures; but a sin committed intentionally, by harsh penances of different sorts."

Chandalantyaastriyogatwa bhukta cha pratigrihya cha,
Patatyajuanat-biprejanat samyantu gachhati.

"Should a Bráhmaṇ carnally know women of the Chandála or Mlechha tribes, or taste their food, or accept a gift from them, he would lose his own class, if he acted unknowingly, or if he did so knowingly, come to a level with them."

Penances are imposed by the priests and punishments by the king: so we find in modern times, although a foreign ruler has taken the administration of the law into his own hands, the infliction of penances is prescribed by the priests and insisted on by the community which in most cases is found to be too strong to be trifled with or disobeyed.

The general division of offences according to the instituter of Vishnu, who collates them in a serial form intelligible to the general reader is into *atipatakani* (heinous sins), *mohapatakani*, (great sins), *anupatakani* (small sins), *upapatakani* (minor sins), *jatibhransakarani* (sins causing degradation from caste), *sankarikarani* (sins causing a confusion of castes), *apatrakaranani* (disqualifying sins), *malabahani* (defiling sins), *prakeernapatakani* (sins not specially mentioned). Under each head the offences are noted; and short chapters follow describing the tortures that await a sinner who carries his delinquencies with him after his death. Fortunately for erring and misbehaving man, the Shastras provide means for avoiding the hideous torments of hell and repeated births in vile and loathsome forms of animals and worms, and the final stage of rebirth in some human frame afflicted with infirmity and disease.

Ebam karmabisheshena jayañte lakshananañtah,
Bogannitastathandhascha kubjahanjaikalochanah,

Vishnu 45th chap. 32.

Bamana badhira mooka durbalascha tathapare,
Tasmāt sarvaṃ prayatnena prayāschittam samacharet.

"According to the demerits of actions men are born with special marks, afflicted with disease, blind, hunch-backed, lame, and one-eyed; dwarfish, deaf, dumb, and weak; therefore expiation ought to be performed with due devotion."

Ebam karmabisheshena jayante sadvigarhita,
Jaramookandhabadhirah bikritakritayastatha.

Manu 11th chap. 53.

“ Thus, according to the diversity of actions, are born men despised by the good, stupid, dumb, blind, deaf and deformed.”

Charitabyamato nityam prayaschittam bishudhyaye,
Nindyairhi lakshanyairyukta jayante nishkritainashah,

Manu 11th chap. 54.

“ Penance, therefore, should invariably be performed for the sake of expiation : since they, who have not expiated their sins, will again spring on earth with disgraceful marks.”

The philosophy of repentance could not possibly be overlooked by the learned and thoughtful sages, while they were intent upon giving Hindu society a constitution as exclusive as possible, yet the most healthy, convenient, lasting and peaceful that has ever been conceived.

Khyaponenanutapena tapasadhyayanena cha,
Papakrinmuchyate papat tatha danena chapadi,

Manu 11th

“ By open confession, by repentance, by devotion and by reading the Scriptures, a sinner may be released from his guilt ; or by almsgiving, in case of his inability to perform the other acts of religion.”

Kritwa papam hi santapya tasmad papat pramuchyate,
Nayiba kuryyam punariti nibritya pocyate tu sah.

Manu 11th chap. 231.

“If he commit sin, and actually repent, that sin shall be removed from him; but if he merely says, ‘I will sin thus no more,’ he can only be released by an actual abstinence from guilt.”

Ajnanadjadi ba jnanat kritva karma bigarhitam.

Tasmadbimuktimanwichhan dwitiam na samacharet,

Manu 11th chap. 233.

“If he desire complete remission of the consequences of any foul act which he has committed, either knowingly or ignorantly, let him beware of committing it again.”

Yasmin karmanyasya krite manasahsyadalughabam,

Tasm'nttabattapah kuryadjabat tushtikaram bhabei,

Manu 11th chap. 234.

“If having performed any expiation, he does not feel perfect relief, let him repeat the same devout act, until his conscience be thoroughly satisfied.”

Prayaschittamukarbanah papeshu nirata narah,

Apaschattapinah kashtannarakan yantidarunah.

Yajnavalkya 3rd chap. 221.

Those men who commit sins, but do not perform expiation, and there-after do not repent, go to fearful hell of excruciating sufferings.”

Repentance, and discontinuance of the offence are the foundation of the system of expiation, of which in early times the forms in practice were those of Krichhra, Chandrayana, Prajapatya, &c. These were gradually modified in their details, and have in these days, more specially since the modern Smritis

have come to be followed, been very much simplified. Wearisome and trying processes have been reduced to the payment of fine and performance of nominal rites indicative of the offender's desire to cease committing the forbidden acts and atone for those already committed. It is remarkable that as Hindu Society has grown older and older, the tendency in all matters connected with the discipline of the mind, in education or morals or religion, has been to soften all rigour and hard training, and to make easy provisions suitable to the ability and endurance of the people. It is to be regretted that the rules of caste have so far been weakened in certain cases,—say, for instance, drinking intoxicating liquors,—that the rule imposing severe penances for a breach has gradually yet in a short time been reduced to a dead letter. The vicious practice has even been raised to the dignity of a sign of progress, so as to mark all discouragers with the ban of backwardness and savagery.

Philosophy and morality aside, expiation is a sanction for curing sins. Sins, whether they appear to maintain their character or not to the enlightened mind that, perhaps, would see nothing blameable, for instance, in marital connections between persons of the same gotra, are begotten by the doing of forbidden acts and refraining from doing acts enjoined by the Vedas.

Akurban bilitam karma ninditancha samacharan.
Prasajangscheudriyarthesu prayaschitteesyate narah,

Manu 11th chap. 41.

"Every man, who omits to do an act prescribed, or does an act forbidden, or is guilty of excess in the gratification of the senses, must perform an expiatory penance."

Bihitasyananushtananninditashya cha shebanat,
Anigrahacchandriyānām narah patanamrichhati.

Yajñavalkya 3rd chap. 219.

"By omitting to do prescribed duties, and by doing forbidden acts, and also by not restricting the gratification of the senses, man falls off from his caste and becomes sinful."

Tasmatteneha kartavyam prayaschittam bishudhyaye,
Ehamasyantarātma cha locaschyaiba praseedati,

Yajñavalkya 3rd chap. 320.

Aasyantarātma shudhataya praseedati locaschayam sambyabha
hartum praseedati.

Iti Mitaksharayam.

"Therefore, penance should be performed by the sinner for his purification in this world; his inner soul will then be freed from sin, and he will find favour and association here on earth."

The sins, say the Shastras, are productive of evil consequences after death; the man, therefore, who desires to avoid the infliction has the choice given him of performing adequate penances. So far it is all plain enough; the theory need not be scanned: but we should halt and enquire how the authority of the Shastras is vindicated, and the law enforced. At no time could it be imagined that all people would

be equally virtuous. In Kali Yuga or the present age, it is unfortunately too evident that unless a delinquent is put under some sort of compulsion, he would not, if he could otherwise get on with ease, submit to any restrictions upon his will. The necessary restraint is found in society itself. Whether there be such a thing as public opinion in this country or not, there is this at any rate that in the case of a violation of the rules that bind particular classes, the members of the community affected continue to put down the wrong-doer and place him in so very inconvenient a position that he in spite of himself it may be in some cases, finds it absolutely necessary to go through the prescribed purification. Society, therefore, supplies the authority that the Shastras require. Briefly stated, the matter stands thus: the community says to the sinner, "if you do not perform expiation, we will not associate with you." He perceives the strength of this admonition, and submits to the common will—the *purohit* being the party specially benefited in the affair, as he carries away the main part of the fine; and the caste-men having a sumptuous dinner at the cost of the reclaimed. So, even in these days, it is a very substantial though fortunately not an un-bearable punishment as of yore that is threatened in case of a dereliction of the duties imposed by the Dharma Shastras. This is the practical procedure. The only earthly object that one has in submitting to the humility and under-

going the expenses of an expiation, would seem to be communion with the fellow brethren.

If fellowship be ignored as the persuasive or the sanctioning element in keeping up the observance, expiation loses all its influence, and would not be workable even for a day. Who would, in this busy and self-accommodating world—which stays not to consider the distant effects of things, but gets on headlong, concerning itself with only the present—sit down pensive over an act committed with eyes open either under an accidental impulse or after deliberation, and cry and lament till some merciful priest should graciously propose salvation to him in the next world, but damnation in this, upon payment of the penalty in kine or shells? Practical good at hand would certainly be preferred to present distress and a promise of future good of an equivocal character. The far-sighted and learned pundits of antiquity could not fail to see this, and could not, therefore, possibly be considered to have provided in any case that expiation would not remove present disqualification and its concomitant evils, but that it would only be a means of securing freedom from punishment in the unseen and uncertain clime beyond the fiery pyre.

Manu places the sins described by Vishnu under three general classes, viz., those of the first and of the second degree, and all others of the third; and proceeds, in verse 72 of the 11th. Chapter, to give instructions for penances.

Etanyenangshi sarbani yathoktani prithak prithak,
Yairyairbratayirapoliyante tani samyang nibodhata.

"You shall now be completely instructed in those penances by which all the sins just mentioned are expiable."

When he comes to the 108th, he says that by the penances described in the preceding verses he has propounded the manner in which sinners of the two higher degrees may atone for their guilt, and that the lesser offenders may expiate theirs by the austerities prescribed in the sequel.

Etairbratairapoheyyurimahapatakino malam,
Upapatakinastrevamebbhirnanabidhairbrataih.

"By the preceding penances may sinners of the two higher degrees atone for their guilt; and the lesser offenders may expiate theirs by discipline of the following various sorts."

Manu is followed by the authors of all the other Samhitás. Coming down to the Puránuas we find :—

Prayaschittani sankuryannasayanaparayanah,
Tasya papani nasyanti hyanyatha patito bhabet.

"Penance should be performed with the mind wholly absorbed in the Deity. Such a man's sins are expiated; otherwise he remains *patita* or fallen."

Sulapáni, a more recent savant and the author of the Commentaries on Expiation, in defining it, quotes Angira,—

Prayonama tapah proktam chittam nischaya nchyate,
Taponischayasangjuktam prayaschittamiti smritam.

"*Prayas* is *Tapas* or penance; *chittam* implies certainty; hence, prayaschitta (expiation) is the rite in which the penances are knitted in causation with the certainty of their effect." He notes that the destruction of sin is certain by expiation. *Harita* also points out the same.

The most recent work on the subject, which is extant in Bengal, is the *Prayaschitta-Tattva* (Enquiry into Expiation) by Raghunandana, who quotes *Harita*,

Yatha ksharopasvedachanda nirnodana prakshalanadivirbha-
shangshi.

Shudhyanti ebam tapodanajagnayih papakritah shuddhimu-
pajanti.

Thus, for the better elucidation of the point, he adopts a simile from the washerman's profession and applies it to explain that "sins are removed by penances, &c., in the same way as all impurities are cleansed by the processes of the laundry." He explains purity as absolution from sin.

The effect of expiation, therefore, is clearly to wipe off the sins of mortals, and thus to purify them. They remain fallen who do not expiate their sins; the stigma continues, therefore, from the time of the commission to the time of the expiation, and exclusion from the community would be limited to that period. The expression most generally used in describing the effect of an expiation is *shudhyati*, 'purifies.' Other phrases are occasionally used conveying the same meaning. Expiation, therefore,

performed to wipe off a particular sin must be the one prescribed for it specially, but not of less rigour: that for a sin committed intentionally would impose double the ordinary terms. But for a sin committed under duress or conditions under which the doer found himself helpless, lesser penances have been ordained. The important feature, therefore, is the distinction of the two classes of acts, (1) those done with knowledge and determination, and (2) those done unintentionally or without design. The phrases used in the two cases are *jnanatah* or *buddhipurbakam* or *kamatah* on the one hand, and *ajnanatah* or *akamatah* on the other. What is done *jnanatah* or knowingly is explained by Raghunandana thus:

Atha jnanakritadinirupanam. Tatra gobadhasya buddhipurbakatvam tadabhavati yadi gam juatva etam hanmecti ichhaya hanti tada kamanadvarayiba jnanasya prabittyangatvattadabhabetvabudhi purbakatvam.

"Illustration of an act done with knowledge: Knowledge, intention and design are assigned to the killing of a cow when one, knowing a cow to be a cow, determines to kill her and kills her with the desire of killing her. This is done with desire, and knowledge is an element included in it. In the absence of such desire, the act is said to be done *abuddhipurbakam* that is, without knowledge or intention."

If, therefore, anything is done in ignorance of its character, or in blind or misguided belief in representations which the man subsequently discovers

to be wrong or untrue, and if he abjures it and is penitent, it must be taken to have been done without knowledge. If, on the other hand, a man, not misled by his senses or argument or otherwise, and fully knowing the nature of the act, intends to do it, and does it wilfully, this is said to be done *jnanatas*, or knowingly. The question is, whether a man who yields to the arguments of the preachers of a foreign religion, and relinquishing Hinduism, accepts their faith, but who afterwards finds out his error and is repentant, and places himself at the mercy of his caste-men with a view to re-admission into the old faith, is to be taken to have sinned knowingly or unknowingly? That there is expiation specially directed to his relief, there is no doubt; but the difference will be in its measure: single in the latter case and double in the former. The will is certainly free and judgment is no doubt exercised; yet the mistake has been committed by reason of the persuasive tact of some master-mind in mystifying the convert's understanding. The definition of knowingly, does not comprehend this mistake. One who, knowing a cow to be a cow, desires to kill her, and with the determination of killing her, kills her acts 'knowingly'; all acts that do not fall within the distinct lines of the definition are done 'unknowingly.' The requisites are (1) certain knowledge of the character of the act; (2) the desire to do what is prohibited; (3) the determination and (4) the com-

pletion. Now, what is the position of the dupe, the wandering traveller, who under fair promises of salvation, supported by reasons not unpalatable, glides into the meshes of a foreign religion? First, the certain knowledge of the character of the act is wanting, evidence whereof is his discovery of the mistake and repentance in consequence. Secondly, the desire to do what is prohibited is absent—the real desire being to do what in his blind belief he thinks to be good for his soul; thirdly, the determination too is wanting. The act, therefore, according to the definition of Raghunandana is done ‘unknowingly.’ The creation of the influence that envelops the mind puts the act out of the purview of the definition of ‘knowingly,’ and it would simply be curious to know how the unfortunate man may by fortuitous reasoning be held to have acted wilfully and designedly.

Except it be a question of the quantity of shells, and hence of rupces, annas and pice, it would be wholly immaterial whether the expiation was double or single, and for that purpose whether the act was intentional or otherwise, but for some doubt expressed by certain recent authorities on the subject, as to the social relief of the delinquent, when the offence is committed intentionally. Immediately after having observed that the liability of a woman for an offence in connection with a fallen man, is the

same as that of a man in connection with a fallen woman, Raghunaudana says :—

“ If an offence is committed intentionally, the sinner becomes equal to a Chandala, and therefore becomes unfit for association even though the double penances have been performed by him. If a sin is committed unintentionally, it is then that expiation cures it ; but should it be committed designedly and wilfully, the transgressor will not be taken into caste in this world ; this follows from the aphorism. But why should he suffer excommunication from society in the absence of sin ?—being the query—the answer is,—by virtue of the aphorism. * * * Crimes produce two distinct results,—hellish torments and excommunication from caste. One of the two effects being obviated, excommunication from caste remains unaffected.”*

This observation cannot possibly be intended for the man or the woman referred to above, but a general application of it, seems more probable—specially considering that the verse quoted from Yajnavalkya, upon which the point really hinges, is not

* Jnanetu tattulyataya dviguna bratacharanepi na vyavaharyah. Prayaschittaiyrapayityeno yadagnanakritam bhabet. Kamotahvyavaharyastu bachanadiha jayate. Iti Yajnavalkya bachanat. Papabasheshe kathamavyavaharyya ityaha bachanadebeti tathachoktam.” “ Papasyadvesaktee narakotpadika vyavahara birodhika chaeti. Tatrayikatarasaktibinashe vyavahara birodhika saktirasteeti bhabah.

restricted in its meaning, but contains a general precept; The disquisition of Raghunandana's is suggested by the Mitakshara, (the notes of Vijnaneshvar on Yajnavalkya), wherein he discusses the eligibility or otherwise of an intentional sinner for re-admission into caste on performance of the necessary penances. The substance of it may be put shortly thus: the sinner becomes cleansed by the expiation, but he will not be retaken into caste. Here common sense asks—Why go through any expiation at all then? If the wife, the son, the darling daughter have to keep aloof, who would go through the penances for an imaginary purpose? Those conversant with the Shastras cannot fail to see that Raghunandana bases his opinion on the authority of one sloka only, quoted from Yajnavalkya and upon nothing else. We, therefore quote it below together with the context, which would lighten up as if with the electric current, the obscurity created, and expose the confusion brought about by him and the late Pundits.

Bihitashyannushthananninditasya cha shebanat,
Anigrahachhendriyanam narah patanamrichhati, 219.
Tasmattenuha kartavyam prayaschittam bishudhyaye,
Ebamasyantaratma cha locaschaiba praseedati, 220.
Prayaschittamakurbanah papeshu nirata narah
Aparchattapinah kashtannarakan yanti darunan, 221.

Prayaschittayirapayityeno yadagnana kritam bhabet,
Kamatohvyavaharyyastu bachanadiho jayate, 226.

Yajnavalkya samhitayam 3rd chap.*

"By omitting to do prescribed duties, and by doing forbidden acts, and also by not restricting the gratification of the senses, a man falls off from his caste and becomes sinful. Therefore, penances should be performed by the sinner for his purification in this world; his inner soul will then be freed from sin, and he will find favour and association here on earth.

"Men committing sins, that do not perform expiation, and thereafter do not repent, go to fearful and painful hell.

* * * * *

"That sin which is committed unintentionally is cured by expiation. If committed designedly or wilfully, the transgressor will only be admitted into caste in this world; this follows from the apothegm."

Slokas 220 to 226 must be read together; they cannot but be so read in fairness to the Rishi and in obedience to the rules of construction. It is evident then that the effect of expiation is to secure (1) the purification of the inner soul that has to go to its next existence, and (2) the favour of the world outside. All legislators say this, and there is no authority to the contrary. Any other view is not possible, if there is to be consistency in the Shastras, or if consistency has to be established where opinions seemingly disagree. But the Rishi contemplates

* Verses 222 to 225 simply mention the various torments which sinners have to suffer in Hell.

deeply, considers the philosophy of future punishments and rewards, runs in his mind the whole system of Hindu theology, and moots the question, 'should a human being gifted with superior powers, committing sins knowingly, go to heaven? Here on earth, the efficacy of expiation may be sufficiently vindicated by his being taken back into caste; but the general effect of the Shastras regarding salvation is lost, the Rishi thinks, if expiation leads to bliss hereafter even in cases of intentional commission of sins. He says therefore,—

*Prayaschittayirapyityeno yadagnana kritam bhabet,
Kamato vyavaharyyastu bichanadiha jayate.*

"That sin which is committed unintentionally is cured by expiation. If committed designedly and wilfully, the transgressor will only be admitted into caste in this world; this follows from the apothegm."

It is this observation which gives occasion to the discussion whether in the event of the offence being committed intentionally, and the double expiation being duly performed, the man becomes entitled to be re-admitted into caste. The view that we have taken inclines us to the conclusion that in as much as re-admission into caste is the only communal effect which practically induces the observance of the penances, to say that in spite of due expiation solemnly undergone, one will not be eligible for social intercourse with one's caste-men, is to cut the ground from

under the feet of the authors of this particular system of theology, and upset the main principle that sins are washed off the moment the infliction of the penances is complete. Why, if expiatory rites are not finished but are only begun and the man dies, he dies in a state of purity for both temporal and spiritual purposes.

Prayaschitte hyupakrante karta yadi bipadyate,
Pootastadaharebapi ihaloke paratra cha.

Iti Yamasamhitayam.

Raghunandana himself, while reading the line as he does, whereby unsocialism is imposed upon the intentional doer of an offence, is staggered at the difficulty and yields his judgment hoodwinked to the supposed authority of the verse. We say "supposed authority" deliberately, as it is clear that the verse is not capable of that construction. "Sins, when committed unintentionally, are cured by expiation," which is the proposition affirmed in the first line, is a particularisation of those that have been mentioned as curable in sloka 220, according to which it must be remembered that both the results attach themselves indissolubly to the observance of due penances, the inner soul being healed and social relations being re-established. The reader naturally would enquire if only one class of sins is removed, how does the rite operate in regard to the other class, viz., sins committed wilfully or intentionally? The question decided in the first line being that only unintentional sins would be expiated,

the inevitable sequence is that sins committed intentionally would not be, but the effect of the expiation would follow, i.e., socialism would accrue. If the word which we read vyavaharyya, is read avyavaharyya as Raghunandan does, the first line, upon the true construction of which the controversy rests, loses all its significance with regard to the inference in the second, as the character of the sins of the other class as affected by expiation would then be wholly ignored. The question naturally presents itself—do they become expiated or not?—and it must be answered by the two lines of the sloka being read as parts of one whole. The first line suggests the answer, no—and next the particle *tu* does its quiet work most effectively, when it dissociates the intercommunistic effect of the expiation from the incurableness of sins of the intentional class. These, therefore, are not expurgated so far as the future is concerned, but are excused for the purposes of this world. The ordeal confers only the communistic benefit on the man who has passed through it. If we read the word vyavaharyya as avyavaharyya, then the little *tu* does the mischief of wholly rescinding the theory inculcated in the first line: if only unintentional sins are expiable according to it, the second line immediately leads to the diametrically opposite inference that intentional sins also are expiable for future consequences, but the wrong-doer would only not be admitted into society. The other particle *yat* occurring in the first line

which is exclusive in its denotation of those sins that are committed without knowledge or unintentionally, throws the light necessary for the elucidation of *tu* in the second. If *yat* has its proper meaning, *tu* also ought to have its own; the use of *avyavaharyya* in that case becomes absurd even according to the rules of grammar and rhetoric. Thus in no way can we reasonably support the reading of Raghunandan, and ours would rescue him from the difficulty in which he finds himself by reason of the discourses of the authors of the Mitakshara and Práyāschittavivēka on this solitary and seemingly ambiguous text. There is a further objection to the reading *avyavaharyya* that is adopted by Raghunandana, in that if intentional offences without regard to their nature or gravity were to carry with them the penalty of banishment from society, the pettiest act would discard a man from all use, and society would be revolutionised, in fact, all men, even those that would not save the lives of scorpions or bugs, would lose caste absolutely. Can there be a greater reproach to common-sense than this? If one does not know that a worm is creeping on the ground on which one treads and unwittingly kills it, one does not lose caste; but according to the *avyavaharyya* explanation of the sloka taken by itself, one would most positively be lost to one's family and all one's brethren, and would be excluded from the Hindu community altogether, if one knows and intentionally treads on it. Fearfully perverse and

subversive of all sense, discipline and order, would the explanation be, which would bring on such a disastrous position ! The sloka must, therefore, be read along with the previous ones to be susceptible of consistent sense.

We may, therefore, in recapitulating, rightly say that for all infringement of caste-rules under the Samhitas and the Puranas there is a series of penances prescribed, one or another of which suits the individual case ; that these penances duly performed would, according to Hindu Scriptures, purify all sins and thereby make re-admission into caste a proper and legitimate proceeding in this world, and save the soul from distress and suffering in the next ; but that in regard to sins committed wilfully, the future state will take its condition from the present, although it is by no means clear that the torments of hell and of vile births and excruciating pains and agonies, described as awaiting the soul leaving the mortal frame without repentance and the due performance of penances, will be the lot of the person that goes cleansed of his impurities, and therefore, with a fairer introduction and a better prospect. This is intelligible, indeed, and consistent with the general teachings of the Hindu Shastras, and we may add, with unsophisticated reasoning and philosophy.

The question, therefore, whether loss of caste for offences committed with determination is irretrievable is known to the ordinary Bengal Pundits, whose

knowledge does not extend beyond Raghunandana's Smṛiti as settled by his dictum; but it is not so disposed of really, as he simply quotes with approbation certain passages only from the Mitakshara, without caring to decide on the purport of the whole of the note to the sloka 226 of Yajñavalkya's "Prāyāschitta Adhyaya" to which and to which alone he alludes.

Neither do the remarks of Vijnaneswar form, as one would expect they should, the quotation that Mahamahopadhyaya Chandra Kanta Tarkalankar, a learned Pundit of Bengal, has made in his Vyavasatha published in the pamphlet brought out not long ago by some of the leading Kayastha millionaires of Calcutta about the re-admission into his caste of a Hindu convert to Christianity. He had Raghunadana only before his mind's eye, and said what the latter had said, little thinking at the time that in the particular case, he was laying down for the Hindus of the Bengal school, a rule of conduct based upon a very doubtful rendering of the 226th sloka of Yajñavalkya. Raghunandana however, candidly admits that he does not quote Apas-tamba from memory or from the work where that Rishi is supposed to have said that "even after the performance of penances, the purified man cannot be retaken into caste."

Nasyamin lokae pratyasattirbidyate kalmaṣhantu ni-
hanyate.

He merely picks up the words from the Mita-kshara and uses them as suggestive of an inference in favour of his view. It is, therefore, a matter of deep regret that a learned Pundit should attempt to put before his believing audience an important aphorism with a wrong application with the evident desire of influencing them against taking back into caste men who have strayed from the beaten path, notwithstanding that they evince a disposition to comply with the terms distinctly set out in the Shastras for their re-admission. It is certainly no fair treatment of the subject to detach one portion of a compound or a complex sentence, or a distich or other sloka, from a chain of argument, and say there is an assertion of a proposition which is, in fact, disproved or denied in the whole. This is what has happened in the present case. If the Pundit had gone a little beyond Raghunandana's mutilated quotation from Yajnavalkya, and without allowing himself to be misguided by Raghunandana had referred to Yajnavalkya himself for an exposition of the question, he could have disabused himself and found the complete sentence reading thus in the original:

Mahapatakajairghorairupatakajaiastatha,
Anvitayantyacharitaprayaschitta naradhamah. 225.
Prayaschittairapaityeno yadajnanakritam bhabet,
Kamatoh vyavaharyastu bachanadiha Jayate. 226.

'Fallen men, by reason of not having performed penances, go to the infernal regions by the commission

of grave sins and minor sins, with the sins adhering to them. If a sin is committed unintentionally, it is then that expiation cures it; but should it be committed designedly and wilfully, the transgressor will only be taken into caste in this world; this follows from the aphorism itself.'

Here is, therefore, a reference to those people who have committed offences falling under the classes of grave sins and minor sins, and with regard to them the admonition held out is that if they have not performed adequate penances, they would have to leave this existence with the sins clinging to them. If they happen to be guilty of sins committed unintentionally these would be expiated by the observance of penances, but intentional and wilful offences of the said groups could be expiated only so far as to bring about re-admission into caste, the spiritual consequences ensuing after the soul has been divested of its material tenement. In all parts of India, therefore, according to the Institutes, one who has performed the proper expiation, will not continue an outcast, but will be fully entitled to all social advantages and community with one's kinsmen. The syllogism in the two slokas is a simple one :

(1) Sinners are either of the unintentional or intentional class :

(2) Those of the unintentional class only will be saved from future punishment by expiation :

(3) Therefore, the rest, viz., those of the intentional class, will not be so saved.

Or, putting it in other words, it would stand thus :

(1) All unreclaimed offenders will suffer punishment hereafter :

(2) Expiation reclaims, for the hereafter, offenders of the unintentional class :

(3) Therefore, offenders of the unintentional class will not suffer punishment hereafter.

Again,

(1) All unreclaimed offenders will suffer punishment hereafter :

(2) Offenders of the intentional class, even after expiation, are, for the purposes of the future state unreclaimed :

(3) Therefore, offenders of the intentional class even after expiation, will suffer punishment in the future state:

Thus one horn of the dilemma being secured, the other is sure not to give much trouble. All are agreed that violation of duties is productive of two consequences, first, future torments, and second, present excommunication from society. The strongest view of the opposition is that in the case of intentional commissions and omissions of the two classes referred to above, viz., grave sins and minor sins, expiation does only *one* office, and not *both*

Therefore, accepting that proposition as absolutely correct, since it does not do the one, it must do the other; and since it is apparent from Yajñavalkya's text, and the apothegm it includes, that expiation cannot save from future pains the intentional offender of any of the said two classes, such an offender derives the other and the single benefit only, that of relief from excommunication. By the performance of expiation he becomes fit for the society of his caste-men, or, to use the technical Sanskrit expression, *vyavaharyya*, and he gains the position of one with whom social relations should be resumed.

X.

THE SANCTIONS—*contd.*

The abruptness with which the remarks of Raghunandan regarding permanent excommunication, open in the published edition, strikes one as peculiarly strange. Views diametrically opposed to those of others and more ancient and really authoritative Rishis are attributed to him. We are led by this to think that some portion of his text here has likely been dropped, and there has been some interpolation of an important character.

Reconciliation between him and the others is not a matter of great difficulty. The manner, however, in which the Bengal Pundits have been marshalling his opinion and keeping the people under submission by cowing them down with his authority and holding them steadily to an error of the most unwholesome kind, necessitates an attempt to open up the mystery and expose the inaccuracy of the general statement "*jnanas tu tattulyataya dwiguna bratacharanaepi na vyvaharyah*" in a better and more lucid manner than before. This can be done without much ado by placing before the public the original of the Mitakshara commentary on the sloka *prayaschittairapaityae*

no yadajnanakritang bhavet, etc., and, in passing, by shortly referring to Sulpani's *Prayaschittaviveka* for his version of the sloka. It must be borne in mind that Raghunandan bases his fiat on this sloka alone, and supports his contention by quoting what Apastamba said on the subject, in the application of which, however, a most egregious blunder has been committed. Sulpani, plies clear of the shoal, and lands upon safe ground. His explanation is partly in accord with the general spirit of the laws.

Perhaps we need be at no pains to establish that in the doing of an act, good or bad, both the mind and the body are exerted, and both require to be corrected according to the Shastras. The place for the punishment of the soul that goes unpurged of its impurities is the next world, and also those that follow, but the present is obviously the state wherein, the body and soul being together, the purification of the material part of man must take place. The double consequences of vice follow as a matter of course; but when expiation is performed both the soul in the next, and the body in the present will be relieved from all punishment. This, of course, in cases of unintentional commissions and omissions. Sulpani in his dissertations says that the expiation for an unintentional sin will not be sufficient for an intentional one, yet it will not be altogether fruitless. He lays this down as his opinion upon the construction of the sloka:

Prayaschittairapaityaeno yadajnanakritang bhahet,

Kamato vyavaharyastu bachanadiha jayatao.

and adds that expiation of the lower degree, not possessing the virtue of preventing suffering in the future confers on the man the merit of communism in this world, to a limited extent.

Kamatah ityajnanakrita prayaschittaena jnanakrita papapagamō na bhavati, kintu vyavaharyatamatram. Nanu sati papae kathang vyavaharyata atraha bachanaditi. Ayamabhiprayas ardhaprayaschittanushtanenardha papakshayat sambhashana sparsan-darsanadilaghu vyavaharo na dushtas. Na tu bhojanaparinayanadi vyavaharopi bachanadeba. Yatha kulalwitwadibydhi soochita mahapapa sheshasadbhave vyavaharyata iti. 10.

In the next section he notices the opposite interpretation of the above sloka in the following terms:—

Athaba akarpprasloshat yathokta prayaschittaena kamatopi papakshayo bhavattyaoba. kintu abyavaharyah papabhabaepi bachanat.

We have already seen how this interpretation is an exceedingly faulty and, therefore, untenable one. All that we need observe here is that a palpable fallacy underlies the argument. The supporters of the opposite view use, as Sulpani notices, a verse from Yajnavalkya, to wit;

Sharanagata balastreebhingshakan sangbashennatu,

Chirusbratanapi sada kritagnasabitaniman,

Kritanirnejakangschaiba na jugupseta karhichit, Yajnavalkya.

So too Manu—

Balaghnangacha kritagnangacha bishudhanapi dharmatah.

Sharnagata hantreengacha streehantreengacha na shangbaset,
Manu.

They try to establish by the quotation, that the direction "no one should associate with the murderer of a child, etc., even if the wretch has gone through the necessary penances," must be presumed to apply to all cases of the intentional type in which the effect of the sin is nullified by expiation. No logic, however crude, would help to attach the obligations of a particular class to the universal, as is attempted here although the reverse would no doubt be true. On the other hand, "it requires no force of thought to see that because the character of the particular had been premised of the universal, the persons named would follow the rule of the more general class, unless they were specially excluded as bearing a peculiar disqualification. Instead, therefore, of these persons being allowed to claim the immunity of the general class, which they would if not specially excluded, they are put down as the exceptions liable to rigid excommunication. Moreover in the above sloka there is no allusion to the knowledge or intention of the doer, whereupon stress might possibly be laid to prove their relevancy to the question, in determining the social disability of the reclaimed offender. It is catching hold of the last straw to depend upon the above slokas as any support to the theory of unsocialism. At the end Sulpani quotes Angira where he says,

‘
Akamatah krite pape prayaschittam na kamatah,
Syattvakamakrite yattu dwigunam buddhipurbake.

He concludes by remarking that the *p*ripiation for an unintentional offence is not sufficient for an intentional one, but the latter requires the double penalties for its due fulfilment.

Akamato yat prayaschittam tanna kamatah krite boddha-
byam, kintu buddhipurbake dwigunam tat kartabyam. Atra
kamakrita iti baktabhyae buddhipurbaka ityabhidadhati.

Thus deals Sulpani with the all-important text of Yajnavalkya, and desperately endeavours to avoid both difficulties. Running clear of the one, he goes so close upon the other that in the section headed *chandadaladyan-nabhakshana prayaschittam*, he narrowly escapes falling into the error of the wrong reading. While discussing the nature of the penance which should be undertaken by a man who has for a long time taken forbidden food, he remarks that inasmuch as one would reduce oneself to the level of the *chandal* by taking his food for a time with full knowledge, one would not be accepted as sociable even on performance of the "24 years' penance." For this Sulpani has no authority whatever, and the fearful threat seems to have for its object only the utter discouragement of the vice of persistently taking forbidden food. Morally Sulpani is right in raising his trident for the destruction of the vicious, but the arm that raised it is staid by the strong voice of the Dharmashastras. Yet there is a reservation in the remark which palpably is so contradictory of his own opinion in the matter, due to the nature of the precept

upon which he bases it. The sloka he quotes from Manu, viz.,

Chandalantyastriyo gatva bhukṭva oha pratigrihyacha,

Patatyagnanate bipro gnānat samyantu gacchati.

refers to Brahmans and to them alone, as, from the peculiar sanctity of the duties imposed upon them, it is of the highest importance that they should be kept strictly within the unaffected area. But one is compelled to go beyond this, because neither the verse itself, nor its context justifies the assumption that there come within its purview people, or even sacerdotal Brahmans, who have performed the necessary expiation. The conception is Sulpani's alone and although he is looked upon as holding a high place among the Pundits, his dictum is not law, and would not be obligatory unless it has the strength of the Samhitas or other scriptures to support it.

Thus we find Sulpani in conflict with himself and undecided at best: but as to Raghunandana, it seems to us, as we have hinted already, that the portion of "Prayaschitta Tattava" which deals with this subject bears evidence that there has been some serious intermeddling with it by later Pundits, and it would indeed, be highly desirable if the original manuscript be ever found, to pore over its pages and ascertain the nature and extent of the interpolation. We should be extremely loath to believe that this profoundly learned man allowed this inaccuracy to creep in among his collections and notes. That it is, to say the least, an inaccuracy is clear from the *Mitākshara* itself,

That erudite work has for its substratum the Samhita of Yajnavalkya, upon each verse of which there are annotations which have been accepted as good law in the country, though not in the lower provinces of Bengal. "We would not have referred to it, had it not been distinctly pronounced to be the fountain head of the Bengal Pandit's inspiration, and at the same time in itself a complete refutation of Raghunandana's doctrine.

It is not quite necessary to translate the whole of the note, but the reader will easily see that Vijnanesvara renders the sloka thus:—"Sins committed unintentionally vanish on the performance of expiation but not those committed intentionally; but owing to the efficacy of the verse directing expiation in all cases, the man guilty of an intentional offence will derive the benefit of re-admission here, but not of future amenity." The remark of Raghunandan, therefore, *vis.*, *gnanetu tattulyataya dwiguna bratucharaṇepi na vyavaharyyah*, taken as it stands in the published editions of the work, is thus deprived of all its significance and is opposed to the authority upon which it is based.

Passing over to the next point of importance the reader will be surprised to find how strangely Raghunandan uses the authority of Apastamba in favour of his contention by the quotation *nasya-min loke pratyasattirbidyate kalmashantu niha nyate*. This is not from Apastamba direct, but is a

transcription of a similar passage occurring at the conclusion, and being the very last sentence of the said commentaries, where its meaning has been lucidly illustrated. The word *asya* is the index to the solution. It does not refer, as Raghunandan takes it, to the individual who has [purposely committed an offence and in the hope of absolution both here and hereafter performed the substituted expiation, but is a pronoun used in the original, whence Raghunandan candidly admits that he has taken the passage, to indicate the person who had undergone the justly obsolete and most rigorous form of penance which had its dire fulfilment in ancient times, in self-inflicted death as the last of its multiplicity of austerities, and which, by reason of the extinction of the body, rendered it impossible for him to return to life and to be retaken into society. This necessitates the action of the alternative, that is, the soul's immunity from punishments hereafter; for as it has already been observed, the rite operates in a two-fold way counteracting the double action of sins and when the penance with the death penalty attached cannot find vent for action for its temporal power, one result cannot follow, while the other will. It is but common sense that death being the dissolution of the body, *vyavaharyyata* cannot supervene; the soul therefore, will certainly be saved. "*Nasyasmin loke prattiyapattirbidyate kalmashantu nirhanyata iti Apastambasmaranat, Mitakshara*". This is the reading

of the quotation in Mitakshara, Raghunandan's source of information in this matter, and from this the precise meaning is clear enough; but the variation, even as it occurs in "Prayaschitta Tattwa" does not change the position, as it is of an immaterial character, the word *pratyashatti*, however cleverly substituted, making no difference in the sense of the sentence, nor *nihanyate* for *nirhanyat*.

Since the original publication of this paper we have come upon the passage we so long wanted, and only very recently, in course of our study; and we abstract the following translation of it together with the context to enable the reader to judge what an egregious blunder was committed by the great Pundit.

Apasthamba dharma sutras.

PRASNA I, PATALA 9, KHANDA 24.

"24. If he has slain a Gurn or a Brahman who has studied the Veda and finished the ceremonies of a Soma sacrifice, he shall live according to this very same rule until his *last breath*.

"25. *He can not be purified in this life. But his sin is removed (after death.)**

PRASNA I, PATALA 9, KHANDA 25.

"1. He who has had connexion with a guru's wife shall cut off his organ together with the testicles

* The word *pratyapatti* is used and not *pratyasatti* as in Raghunandan. The italics are ours.

take them into his joined hands and walk towards the south without stopping, until he falls down dead.

"2. Or he may die embracing a heated metal image of a woman &c. &c."

Death is the penalty that has to be paid in one of various ways for certain very heinous offences, and after it the sin is removed. So the Mitakshara-explanation is quite correct, viz., that when a person gives up his life as the penance for the sin, in as much as it is not practicable for the man to be taken back into society, the other alternative consequence (since *one* of the *two* must ensue) will follow, that is the soul will enter the next existence free from the sin. Hence the interpretation of the Apasthamba sutra is this: *asya (prauantika prayaschitta kritasya) asmin loke prattyapattih no bidyate, kalmasantu nirhanyate.*

Haradatta in his commentary explains *prattyapattih* as "connexion by being received as a son or other relation." So we have the rendering thus: The person who performs the prayaschitta of death can not be accepted or re-established in his connexion as son or brother or other relation, by reason of his ceasing to be in life, but the sin will most assuredly be expiated.

Asya, it is now clear in the sutra *nasyasmin lokae prattyapattir bidyate kalmasantu nirhanyate* is a reference to the man who has performed the prayas-

chitta ending with the sinner's death by reason of his having committed the murder of a Brahman learned in the Vedas, or theft of gold &c., and who therefore cannot be obtained for fellowship in society. His sin will be expurgated after death.

To summarise: expiation produces both communion and absolution in the unintentional class of offences, and in the intentional, only the one or the other of the two results: hence, in a case in which one of the two cannot accrue, the other will. A man who has performed the *māraṇantika prayaschitta* cannot avail himself of communion here, therefore his soul will go sinless into the future.

To elucidate the point still more we may with profit make the following further quotation from the Dhurmasutras of the said *rishi*.

PRASNA I, PATALA 10, KRANDA 28.

Sutra 15. But the violator of a Guru's bed shall enter a hollow iron image and having caused a fire to be lit on both sides, he shall burn himself.

S. 18. He (the violator of a Guru's bed) shall reform to his *last breath* (the penance) presented by that rule (sutra). He cannot be purified in this world. But (after death) his sin is taken away.

Again 21. He who has killed a man learned in the Vedas and Vedangas shall put on the skin of a

dog or of an ass, with the hair turned outside, and take a human skull for his drinking vessel.

PRASNA I, PATALA 10, KHANDA 29.

1. And he shall take the foot of a bed instead of a staff, and * * * * According to this rule he shall act until his *last breath*. He cannot be purified in this world. But (after death) his sin is taken away..

Raghuṇandan's misapplication of the afore-said sutra is now evident beyond all manner of doubt.

Query: the criminal law of the country absolutely prevents the suicide contemplated in the most rigorous form of expiation called the "prananttika." Will the expiation be deemed to have been duly performed without the extreme penalty being paid? If so, will the reformed man be taken into caste or his soul only saved?

No difficulty seems to arise in the disposal of these points. The criminal law of the country provides the same punishment in the case of murder, as is prescribed for a Soodra who takes the life of a Brahman. If the convicted man, before the execution of the sentence, devoutly and seriously repents his soul will enjoy peace, in as much as his body will be destroyed and not be available for any benefit on earth. In all other cases, the body will be allowed

the privilege of use, the soul remaining condemned, unless the repentance is of such an austere character, as would bring on the blessings of the next existence in other ways.

Query: The criminal law in force does not lay down the severe punishments ending with death ordained by the shastras in cases of offences of the most heinous kind relating to person or property what will be the condition of the criminal after he has undergone the king's inflictions ?

The Shastras themselves have substituted penalties which are, indeed, eagerly availed of in these days. These do away with the necessity that existed in pristine times, of actual observance of the details. Therefore, after the king has let the criminal have his liberty, and the latter has performed the proper expiation, he becomes pure enough for association. Where this relief is possible, the man will have it but not the favours of the future. There are a great many acts which do not come within the purview of the criminal law, but which nevertheless are prohibited to the Hindus. Eating forbidden food, and repouncing Hinduism or embracing a foreign faith are to the point. Both these come into consideration under sloka 57 of the 11th chapter of Manu:

Brahmohata bedaninda kowtasakhyam suhridbadhah,
Garhitanadyayorjagdhih surapanasamani shat.

"Forgetting the texts of scripture, showing contempt for the Veda, giving false evidence without

a bad motive, killing a friend without malice, eating things prohibited, or from their manifest impurity unfit to be tasted, are six crimes nearly equal to drinking spirits, but perjury and homicide require in atrocious cases the severest expiation." The expiation referred to in sloka 108 is of that sort.

Elayirbratayirapoheyarmahapatakino malam,
Upapatakinastrevamevirnanabidhayirbratayih.

"By the preceding penances may sinners of the two higher degrees atone for their guilt; and the lesser offenders may expiate theirs by the following austerities."

Vide Yajnavalkya, III., 223—9.

The expiation for these offences should be similar to that for the grave sins of killing a Brahman in the one case, and of drinking intoxicating liquors in the other, they being of the class of *mahapatakasamani*, or grave sins, and would be either of the two forms, *Aswamedha* or *Tirthanusarana*; *vide Vishnu*:

Annapatakinastvete mahapatakino yatha,
Ashamedhena shudhyante tirthanusaranena ba.

Sloka 8, chap. xxxvi, Vishnu.

But Vishnu himself classes the same offences of eating forbidden food and renouncing the Vedic religion, under the category of minor sins in chapter 37, clauses 7 and 31 for which he prescribes the penances as follows,—and they are of less rigour than those aforesaid:

Upapatakinastvete kuryyaschandrayanam narah,
Parakancha tatha kuryyurjajeyurgomakunaba.

So Bhagavan Vishnu, we find, does not lay down any penance requiring the extinction of the sinner's life, in the above two cases. A slight reference would discover what the substituted fine would amount to, and what the processes of the attendant rituals should be, which it is not needful for our purposes to consider. But even in the most extreme case, suppose it be conceded that the death-penance has been ordained as some Rishis seem to say, in-as-much as the alternative forms have been introduced and followed, obviating the necessity of actually giving up this being, the man in the body continuing to live, and it being physically possible for him to rejoin his society, we have seen above most clearly that he would be entitled to do so upon the most uncontested authority of the principle assigning to prayaschitta the double powers to which Raghunandan has referred with so much emphasis. In the face of the fact that, speaking ill of the Vedas and atheism and similar expressions are used for indicating certain sins, it is not correct to say that no expiation has been noted for a Hindu who has gone through the baptism of the Christian Church, or, assumed any other religion, Mahomedanism or Confucianism. If no expiation were mentioned, perhaps the position of the convert desiring to rejoin his religion would be better still, if only he had not taken forbidden food; but in that case it would be rather a curious matter that the distinct denial of the authority of the shastras and the refusal

to obey their precepts, which would jeopardise their cause most hopelessly, should go unpunished. We however, find it different, and quite as it should be :

Nastikanam prabakhyami narakam srinu bhupate,

Abdanam katiparyyantam narakam bhunjate hi te.

Punascha bedaseraddhabiheenatvam gurutalpasamangsmritam.

I:1 Brihannaradiye chap. XII.

And it would perhaps, be a pleasurable relief to learn the tidings of grace in verse 14 of chapter 28 of Vrihannardya.

Dvadasabdam bratam kuryyadebam hariparayanah,

Brahmaha suddhijmapnoti karmahascheba jayate.

"A man who kills a Brahman will be both freed from sin and become fit for every religious action and association in consequence if he performs the twelve years' penance with his mind devoted to God."

If we have at all been able to illumine to any extent the gloom which has in later times been cast upon the subject, we may with no slippery steps pass over to the question of sea-voyage,—a question upon which already the trumpet of rumour blowing the discordant notes of surmises, jealousies and conjectures, has been sounded by the Pundits at the sacrifice of truth and the country's cause. It has been said that it is a sip, an act interdicted by the shastras, to cross the waves and to go to a mleccchha land where nothing but forbidden food may be tasted. Yes, indeed! but where is the proof of the prohibition against sea-voyages? Whether it be a matter of necessity or not though it is so at the present time, as none but the

most unpatriotic will refuse to admit, our present needs cannot as a matter of religion and faith be allowed to override the shastras. But so far as we are aware, the needful admonitory text is alleged to be found in the Vrihannaradiya, Chap xxii:

Samudrajatrasveekarah kamandalubidharanam,
 Brijanamasabarnas kathasoo pajamastatha, 12.
 Debarena sutotpatirmadhnparke pashorbadbah,
 Mangadanam tatha araddhe banaprasthasramastatha, 14.
 Dattakhatayah kanyayah punardanam parasya cha,
 Dearghakalam brahmacharyyam naramedhaswamedhakan, 15.
 Mahaprasthanagamanam gomedhancha tatha makham,
 Iman dharman kaliyuge baryyanahurmaneeaminah, 16.

It should be quite apparent to all that here there is not the remotest allusion to sea-voyage. "A journey to the sea" was a sort of austerity undertaken by the people of earlier ages for the good of their soul. This was an act by which one would give up his home and go and live on the sea-coast under peculiar circumstances. He would not have to cross the sea, although we would not be astonished to hear that taking to the sea in a boat for the purpose of ending one's life to gain immunity from the punishments for sins hereafter was the concluding part of a form of the said prayaschitta. The reference is to a *dharma* or *vrata* or a particular act of religious abnegation; this the weaker men of the Kali or the present age are exempted from. Evidence to prove this proposition we have in the concluding verse of the above quotation. Each phrase in the slokas quoted indicates

some sort of religious act which would be allowed or imposed in the earlier days, and the journey to the sea is one of them. Why, the reader must have observed from a reference we have made above that to go to expiate one's sins at the Setu—the bridge constructed by Sree Rama Chundra—was a prescribed act of merit. Witness too Parasara, 58, Chap. xii.

Chaturbedyopapannastu bidhibadbrahmaghatake,
Samudrasctngamanam prayaschittam binirdishet.

But those who are learned in the Vedas should direct a journey to the *setu* on the sea as the prayaschitta for killing a Brahman.

Thus sea-voyage, not objectionable in itself, becomes so only by reason of the concomittant circumstances including the worst of them, viz., food. The misconstructions upon that subject must be apparent now. Therefore a Hindoo who has been to England or any other foreign country, and on return has gone through the proper expiations, is free to mix with his caste, eat with them and marry his sons and daughters among them. Research and discussions aside, we need not go far. Even Parasara, the authority to be followed in this age along with Manu, we find distinctly says,—

Setum drishtva samudrasya brahmahatyam byapohati. 63.

Punah pratyagato bosma basarthamupasarpati. 64.

Nor has the return home been declared to be without its natural incidents. He gets the company of his sons and his servants, and has to bring on the

consummation by a happy final step—a feast to the Brahmins.

Saputra saba bhrityaischa kuryyadbrahmanabhojanam.

The Brahmins would themselves become fallen it stands to reason, if expiation did not confer the communal blessing. We are unable to go to the length of believing without special proof for the proposition that the feast being a part of the religious ceremonies to be gone through, the Brahmins would not suffer, although the sinner must remain an out-cast—the absurdity is patent !

To give a brief resume of the points discussed, we may state,—

(1) That prayaschitta is ordained for all crimes and misdemeanours.

(2) That it has to be and can be performed in every case of intentional or unintentional sin great or small.

(3) That the benign effect of prayaschitta follows from the time of its performance.

(4) That in cases of offences intentionally committed, only one of the two results will follow, either freedom from excommunication which is present punishment or freedom from future punishment.

(5) That if the expiation really ends in death the man has no chance of enjoying the blessing here ; hence he would get relief hereafter.

(6) That since other forms of prayaschitta are prescribed in the alternative for the extreme one that

closes its details in death, the benefit of communion necessarily follows here.

(7) That the highest class under which the taking of forbidden food intentionally, here as in any country beyond the seas, can possibly be placed, is that of *upapatakas*, for which expiation has in plain terms been decreed.

(8) And that if one has to go across the waves whether he takes forbidden food intentionally or otherwise, he will be entitled to the society of his kinsmen on the performance of adequate *prayaschitta* upon his return.

(9) So also a Hindoo who has embraced a foreign religion, but finding out his mistake undergoes the due penances will surely be entitled to be taken back into caste.

(10) And also let it be noted that taking forbidden food in a foreign country or under circumstances over which one has no control, as also the sinful act of the man coming under clause 9, may both fairly be included among the unintentional offences.

It will not we suppose be improper here to insert abstracts of three Bengali pamphlets which we published from time to time in succession and the substance of which with such additions as further study enabled us to make was read as an essay at a meeting in the Rajbati of Rajah Benoy Krishna Bahadoor and created a very great sensation in Hindu society.

The subject of excommunication, the removal of the ban and the redemption of caste, has been treated under the title—

PRAYASCHITTANTE AVYAVAHARYYATA VICHARA.

A Synopsis of the First Pamphlet.

The questions discussed are

1. WHETHER a Hindu convert to Christianity or any other religion may be taken back into society after he has undergone the penances (Prayaschitta.)
2. Whether a Hindu who by reason of having eaten forbidden food has been out-casted, may be admitted into society upon performing prayaschitta.
3. Whether a Hindu who sails across the oceans and lives in a mlechha land and then returns, may be taken back into society after he has gone through the Prayaschitta ceremonies.

Although the prevalent opinion of the principal Pundits of Bengal is that Prayaschitta obtains in all these cases, yet some assert that even after the performance of Prayaschitta they cannot be taken back into society. The latter base their opinion on a single text of Raghunandana who in his turn takes it from Yajnavalkya, but the quotation is different from the original in that there is a letter in the former that does not occur in the latter, viz., the negative particle *a* (lupta akar) which makes the world's own difference

in the rendering of the passage. Raghunandana quotes *avyavaharyya* for *vyavaharyya* in Yajna-
valkya's sloka;—

Prayaschittairapaityeno⁴ yadajnanacritamvabet,
Kamatovyavaharyyastu vachanadiha jayate.

If the reading of *avyavaharyya* be maintained, the sloka becomes meaningless when read with reference to the context. The Mitakshara, the authoritative exposition of Yajnavalkya reads *vyavaharyya*, and lays down that owing to the injunction of death in the most serious cases, when the sinner dies, and therefore cannot come back into society, there will be an entire absolution from sins; whereas if the sinner does not perish, then he may come back into society but his sins will not be expiated. This *vyavastha* holds in all cases of substituted penances (Vikalpa prayaschitta.) Raghunandana's opinion is in conflict with the Shastras, which clearly indicate that in all cases, substituted prayaschitta for such intentional commissions as bring on excommunication, does not offer expiation for the future, but only the boon of admission into caste.

The Pandits are requested to controvert this if possible.

Synopsis of the Second Pamphlet.

FIRST SECTION.

The second pamphlet begins with a reproduction of the questions opened in the first, and notes the

answer that 'the persons mentioned therein can surely be taken back into society. Mahamahopadhyaya Pundit Krishna Nath Nyaya-punchanan says in reply that the argument of the first pamphlet is sound; but Raghunandana and Sulpani being the extant authorities in Bengal, he does not like to contradict them.

It will however be observed that—(1) Sulpani is not clear on the point raised. He first explains the text on which the whole discussion rests, as he finds it in Yajñavalkya (without the negative particle); and then goes on to explain what the verse would mean if the sign of the negative were introduced.

(2) The dictum of Apastamba quoted by Raghunandana has been admitted by him to have been taken from the Mitakshara :—

Nasyasmin loke prattyapattirvidate kalmashantu nirhanyate.

It has not been traced to the original source, nor to any other than the Mitakshara, where it has been interpreted to mean that in those cases in which the prayaschitta is performed by surrendering life, there is no chance of the benefit of social communion accruing. Raghunandana has therefore no right to change its signification.

(3) Raghunandana having applied the doctrine in a wrong sense, his conclusion is unsupportable and fallacious. .

SECOND SECTION.

Babu Prasanna Kumar Daniarhi in his pamphlet in reply, says that the persons mentioned above should not be taken back into society as it has not been the custom to do so. He forgets that only that custom is valid which is based upon the Shastras, but the one he refers to is not, and therefore is not maintainable at all. In the second place he refers to Vishnu Samhita without observing that the same work mentions these very persons as the lesser offenders (upapatakinas), wherefore they are fit to be taken back into society after prayaschitta. In the third place he quotes Vriddha Harita Samhita which also has been proved to support Yajnavalkya and the Mitakshara and not his view.

THIRD SECTION.

The mistake arises from a confusion made between two classes of sins leading to excommunication; those committed intentionally, and those unintentionally. The latter may be fully expiated both results following, *viz.*, absolution in the future, and communion in society here; but the former will derive the benefit of only one of these two results, that is to say, whichever is possible. In the case of substituted

penances life is saved, therefore not immortality in the future, but the alternative communion in the present will follow.

FOURTH SECTION.

Thus all the smritis with the single exception of Raghunandana's, ordain that the persons in question may be taken back into society. Raghunandana's fiat therefore that they are *avyavaharyas* is baseless, and should not prevail.

SEA VOYAGE.

A learned Pundit of friendly disposition hailing from Benares warned us against raising the question of Sea Voyage for discussion in the North West and other parts of India outside Bengal, and said we might thereby create an indignation that might not be desirable for us. We shall draw the most careful inference from this caution, but owing to the great importance of the subject to the people of India and their present needs, will not desist from an attempt to popularise our views so far as it may be possible for us to do in the midst of our multifarious duties.

Synopsis of the Third Pamphlet.

FIRST SECTION.

Since the publication of the second pamphlet a Pandit of some celebrity has drawn attention to certain passages in two religious works extant in the North-West and other Provinces, one entitled Dharma-dhī or Dharma Sindhu and the other Nirṇaya-sindhu, the effect of which is to declare Avyavaharjya or unfit for social intercourse persons who have journeyed over the seas. Although the said works are not original scriptures yet a correct decision and enunciation of the law seeming necessary, the opinion of the Dharma Sindhu deserves examination.

It recites that certain usages prevailing in olden times should not be followed in the present age (Kaliyuga), and sea voyage is among them. It proceeds then to say that people who have committed such grave offences as the killing of a Brahman &c. will not be excused from punishment in the future but will by going through the penances be taken back into caste. Then in dealing with the condition of the associates of sinners, it asserts that Brahmans who have made sea voyage should not be had communion with. But it is clear that sea voyage could not have been specially forbidden in the present yuga, if it had not been allowed before when it was not a sin. Th

slokas quoted by the author refer to Samudra jatra which is included in them among the *Dharmas* or approved observances. That particular religious practice therefore which was styled Samudra jatra, has been interdicted at the present time like others mentioned in the aforesaid text.

SECOND SECTION.

The *Nirnaya Sindhu* notes an *Adityapurna* verse quoted in the *Hemadri*, and says that even after *prayaschitta* a Brahman who has been to sea by boat should not be associated with. This is a special injunction for which there is no authority any where in the original *dharma shastras*; hence a mere statement of this sort can not have a binding effect, whereas the evident conflict between the said dictum and the text of *Brihannaradiya* is easily obviated by looking at the nature of the act forbidden. In writing "*Samudra yatra swikara*" of *Brihannaradiya* as "*Samudra yatus swikara*" a slip of the pen might have occurred. But if that be not conceded, then it must be admitted that that form of sea voyage or that particular religious rite which in the ages preceding the present was considered a *dharma* is a sin now, as otherwise the association with a man who has been to sea can not according to the rendering of *Samudra yatus swikara*, be an offence. For this the authority is *Brihanaradiya*, which reads *Samudra*

yatra swikara, and can not but, as it must be first declared that the religious rite of sea voyage of yore is objectionable before the association can be. Hence the reconciliation of the apparent conflict follows in this way: that the Brihannaradiya makes it a sin to undergo the old religious ordination of sea voyage, and the Nirnaya Sindhu makes the association sinful.

Upon the manuscript and proof being placed before the aforesaid Pundit he made certain comments, in the main and important portion of which he stated that it is indeed true that expiation will not prevent the after consequences of intentional sins, and the delinquent will only be vyavaharyya, or fit for society, yet the author of the Dharmabddhi or Dharma Sindhu says that that should not be so, and that there is no authority for the position that Samudra jatra was a *Dharma*. In answer (1) it need only be pointed out that the mistaken opinion of the Dharmabddhi already criticised can not be acted upon and therefore is no support for the contention against sea voyage for pleasure or business; and (2) the verses of Brihannaradiya pertinent to the point need only be quoted to carry conviction.

Samudra jatra swikara kramandalu vidharanam.

Dvijanam asavarnasu kanyasopayasmastatha.

* * * *

Mahaprasthana gamanam gomedhancha tathamakham.

Iman dharman kaliyuge barjyanahcoormaneeshinas.

Brihaunnaraadeeya purana, 29 ch.

In conclusion it may be pointed out that even if it be assumed that Samudra'yatra in the above slokas means sea voyage pure and simple, and that it is a sin, then the prayaschitta ordained for *prakeerna* offences, that is to say, those that have not been mentioned specifically, may be prescribed by the Brahman savants; and in as much as complete expiation or future benefit will not accrue, the inevitable result will be fitness for society (*vyavaharyata*). But one need not go so far, as it is clear from the Dharma Shastras that sea voyage except the particular religious observance of that name, is unobjectionable.

XI.

MARRIAGE EXPENSES.

We have elsewhere shown, and it was indeed a long time ago we wrote, that a demand on the part of the bridegroom or his guardian for any consideration for accepting the bride as his wife, detracts from the merit of the sanskara of marriage, and properly speaking, reduces it from the Brahma, a more approved form, to the lower rank of the Prajapatya, which is forbidden in the current age. Two alternative propositions suggest themselves to us: the country has in the present transition either not wholly come out of the condition so very much depreciated, bearing still the stain of reproach; or it is lapsing into a state of contempt, owing to the pre-dominating force of temptation, or the more powerful and practical influence of barter:—the second however being true, why should a worthy bridegroom, who is on a fair way to earning degrees in the university, or who has already been decorated with them, encumber himself with a bride, be she of the same class and endowed with rare gifts of nature, and those other qualifications too, which are insisted upon not so much for mental culture as for domestic and other useful

purposes! Worldly prudence suggests the ~~exaction~~! Oh, the shades of the *munis* and *rishis* of old! What a metamorphosis of your system has overtaken Hindu Society! Yet the end of it is in itself as it lies in all other things, and the denouement is being slowly carried out.

Or, perhaps, we should seek elsewhere for the source of the abuse: Although at first sight it would seem as if the fault was wholly with the acceptor, the anxiety of the bride's parents to bestow her on the most eligible person sets on foot an enquiry and encourages a selection among a number of candidates; and the principle of higher qualities carrying better prices, imported here and vigorously pursued by the merchants of the west, is found to be so conveniently accessory to moral needs and social purposes as to lead to its adoption in arranging marriages, and to a pitiable disregard of time-honored and ancient custom. Perhaps some might impute to the system of early marriage of girls this monstrous evil on the ground of the urgency that is attached to the necessity for early disposing of the daughter, and the consequent hurry to conclude a settlement. But however much this may be accounted as a factor in the calculation, the struggle between the different parties for selection and approval of the fittest, not on the grounds considered proper hitherto, but on the basis of the degree of comfort luxury and happiness expected upon a particular alliance, creates a com-

petition in the matrimonial market; and the keener the desire to secure a wealthy or degree-holding son-in-law, the higher the money-value set upon the transaction. The abuse thus brought about of the noble system of Brahma marriage, will of itself be cured, when the parents of girls will find it beyond their means to secure the youth of their choice; that is to say when it has arrived at its climax, and when therefore, people will come to entertain only reasonable aspirations regarding the future of the bride. There is a limit to giving, but none to taking; so long, therefore, as the purse can supply one can spend, but after the pounds and shillings have run out there will be the direst necessity for moderation in hopes and sentiments, and the higher flights of one's desires will be subdued. And again unless one gives one cannot get; if, therefore, for the reason of want of means the offers get crippled, the choice of the recipient will become limited as it would lie only among them, and healthful work will begin. But the good sense of the community should certainly prevail, and without waiting to tighten the string of the empty purse, bring about a system of general refusal to pay more than is proper, and relieve society from disgrace, and individuals from ruin.

Yet, from another and more practical point of view, the remedy seems to be in the evil itself. One evil begets another, and avarice is no exception to the rule, or is, perhaps, a very notable example in itself.

Instances have come to notice, and the records of Courts will bear testimony, that by reason of want of ready funds, notes of hand or similar documents were offered and received, which in due time proved to be worthless like Lysippus's bonds, for the same reason that led to their execution. Disagreement between relations followed as a necessary consequence and cases of divers descriptions. Why, of more frequent occurrence are disputes of a similar nature owing to faithlessness in promises to bestow ornaments on the bride, which at the time of the marriage could not be secured and offered. These are not all the developments of the custom; criminality too comes in, and the trade in chemical gold is in some measure helpful for the presentation of ornaments that glitter but do not stand the test of gold. These will, no doubt have a deterrent effect at least upon those that expected much but got little, and induce them on subsequent occasions to accept of certain bounties *albeit* of value smaller than what their greed would suggest. And as rumour would spread the news of the disappointment with a thousand tongues, people would get more and more wary, and feel the truth of the adage that one bird in hand is worth two in the bush. So it seems that when this state of things will come about, enough will have come out of the evil to cure it. But this will be work of time.

Are our countrymen willing to revert to our old ways in this matter? Will they have any regard for

the custom itself, out of which they have evolved the egregious horror? The pretence for a demand was about a quarter of a century ago based upon the *bata* or premium which would be imposed in case the bride-groom belonged to a higher section than the bride's father, but that was merely a nominal amount; whereas the practice that has grown up under the influence of education and free thought, has given support to a rule that money consideration is of the essence of a Hindu marriage. Whether other nations suffer from a similar state of things, or approve of it, is not of any importance in coming to a conclusion as to its character, but if the good sense of the nation is against the abuse, the remedy is simple enough and is in their hands. Why, if the parent of the bride in those cases where he has to pay, refuses to pay at all or so much as is demanded, the owners of bride-grooms will necessarily have to reduce their demand when such refusal becomes general. The bride's side may in the struggle have to undergo some slight sacrifice in their *kool* or social status, but will lose nothing in morality or in religion, in regard to which on the other hand they will indeed raise themselves in the estimation of all, as being "no lip-reformers but practical" opponents of a widely felt abuse.

The gradual disappearance from our midst of the *ghataks* or bards, who used to keep the records of kulinism and sing the pedigrees, and settle marriages and disputes regarding pre-

cedence and preference, is an additional reason furthering the growth of the system which we denounce by our words, and foster by our conduct. If those of them that are yet alive, be encouraged in their vocation and provided for by the community, as they used to be before, and strength be given to them by this means of asserting their rights, and dictating how the details regarding presents and gifts should be settled, that would be a step towards the achievement of social improvement and progress. But that does not seem possible in these days when people would not pay a quarter-rupee a year as *bardik* to a Brahmin herald even for such a noble purpose, and in contemptuously avoiding would contend that the revival or maintenance of the class would neither have a far reaching effect, nor guide individual action in society.

When we ask then what ought to be done, echo answers "meet and lecture on," and the result of it would decidedly be the passing of some resolutions though there are no means at command to work them out! Let the fiat go forth that no one shall demand anything for marrying another's daughter: the ventriloquist's ghost repeats "no one" with strong emphasis; but in the present state of Hindu Society, specially in Bengal, the emphasis however loud gradually loses itself in the air!

The only hope lies with the heads of the different branches of the several castes, including

those that receive consideration for giving their girls in marriage. But alas! it is with them and them alone! If there were no sacrifice of personal interest involved in the matter, benevolence would have asserted itself, but Mammon claims his own!

Some seem to think that if the rule of marrying daughters before puberty be disregarded, the parents would get time extending over at their pleasure to secure good husbands at a moderate outlay; but practical considerations would at once show that allowing girls to grow beyond that event is raising the premium against her, and that to this is due the excessive high biddings of the present day: because it is evident that the anxiety of the parents to marry their daughter, if once the limit fixed by religion be done away with, and with it ceases the earnestness of relations and friends for a speedy wedlock, would become more and more intense and intolerable, without creating a desire in others to come to their relief; and on the other hand those that fixed premiums on their daughters against supplicating bridegrooms would find this mode of reformation very much to their advantage, and charge high fees, allowances and perquisites for grown-up daughters. Therefore, whereas on the one hand religion would be violated no corresponding benefit on the other would accrue to the community, but enough of probable danger and scandal, and certainly no abatement of the objection itself. Without relying therefore, on the mode we

referred to of attempting to stamp out or keep under control the practice complained about, can we not derive a lesson and a successful precedent, from the manner in which the more heinous of the two evils has been grappled with in the Shastras, which is popularly understood to be the sale of daughters, and is declared to be a great sin which lowers the rank of the parents and all concerned ?

The effect of this admonition is that none but the very avaricious and unimportant members of society have anything to do with the practice, and those that have the slightest concern in the affair are held in contempt by their relatives, neighbours and all.

Na kanyayas pita vidvan grihinyachchhulkamanawapi,
Grihnan sulkam hi lobhaena syannaropatya bikrayee.

"Let no father who knows the law recover a gratuity however small, for giving his daughter in marriage. The man who through avarice takes a gratuity for that purpose is a seller of his offspring,"

In the same spirit was the ritual of Brahma marriage conceived.

Achchhadyacharchhayitwa cha srutaseelabatai swayam,

Manu 3-2.

and in Yajnavalkya (1-58)

Brahmahabha shnya deeyatai saktyalankrita.

It is clear that on the part of the father importance is attached to his inviting the bridegroom and bringing him to his house and offering him wearing apparel, and to his adorning the bride with ornaments

according to his means, and making a free gift of her to the bridegroom. Costly presents to the bridegroom are out of the question. It is only the bride that may receive them, both from her father and his relations, and also from the bridegroom's relations;—those from the father or guardain being limited to his means. There is no room for a suggestion, that the bridegroom is entitled to any gifts other than the adorned daughter; but if the father desires to offer any valuable or useful things, that should be a matter left to his option, and the bridegroom's stipulations of any kind are unwarrantable and improper.

It is a satisfaction to find that the shastras do not countenance the payment of any sum of money to the bridegroom or his father, nor either to the bride's father. It is clear that the Brahma form of marriage being the only form allowed in the *Kali yuga* of the several in vogue in earlier times, the imposing of any conditions precedent to such a marriage is not contemplated at all; such conduct therefore is outside the scope of the shastras, and inconsistent with their tenor. In what manner can it then be justified either in morality or in religion? Witness Gautama Chap IV. How succinctly he puts the whole matter before us, and prominently as well—

Brahmobidya charitra bandhuseela sampauṣya dadyadaach-
chadyalankritam. Sonyoga mautra prajapātyae.

Sakadharmancharātamiti. Arahae gomithunnam kanyabatae
dadyat

Antarbbadritwijae danam daibas. Alankrityaachchantya

*Swayam sanyogo gandharbas bittaenanantistroomat masuras.
 Praschya danadrahakusas. Agambigyanopasagmanant
 paisachaa.*

It is not unoften a plea is raised on behalf of the recipients in the transaction that the money and other valuable things offered are by way of gift or "*Dan*." These certainly are no gifts in any religious sense. All are aware that marriages take place at night or earliest at dusk, when nothing can be bestowed as *dan*, except the daughter. But may they be considered *jautuk*? They are not quite free offerings, and the way they are secured renders the character of the *jautuk* highly objectionable.

No approved custom, not to speak of Hindu religion, contemplates the payment of *jautuk* before marriage. The practice therefore by whatever name we may call it takes away from the merit of the marriage which should be a free and unconditional gift of the daughter. The following propositions may therefore, be fairly stated as evident: 1st.—That Hinduism does not contemplate such negotiations as are in these days lustily indulged in, regarding the quality of the gold and other valuable presents, that would have to be placed in the balance with the daughter on the one side and weighed against the bridegroom on the other.

2nd.—That such negotiations are in conflict with marriage laws observed among Hindus.

3rd.—That no ancient custom exists in regard to such payments or presents.

4th.—That the custom that has grown up is inconsistent with *sadachar* or approved conduct, and therefore not allowable.

5th.—That in morality there is no justification for the exaction.

6th.—That such acquisition of wealth is vicious, so long as the bestowal is accompanied by a demand on the one side and a grudging consent on the other.

A word on *kulinism* is, perhaps necessary here in support of the statement already made that it is hardly responsible for the state of things under which the opprobrious system of extortion has arisen. The rank of a kulin was given to a man who had some very excellent qualifications. All over India this has been so from time immemorial. In Bengal particular distinguished classes of Brahman and Kayastha kulins were inaugurated during the reigns of Adisur and Ballal Sen; and their sons continued to be kulins by right of birth, until they lowered their dignity by ill-affianced marriages. Next to the kulins, the Srotryeas occupy a prominent place in Hindu Society, and a kulin wedded to the daughter of a Srotryea is esteemed as brightening his escutcheon. By such a marriage a kulin would not get, nor would he have any reason for demanding, any consideration; and

similarly also in the case of a kulin marrying a girl of the same rank.

It is only when the girl happened to be of a lower rank, that the difference would be squared by payment of a small sum by way of *kulamariyada*. This custom has gradually been developed into undue proportions, and abused in a manner so as to admit of no apology based upon cool or nobility of birth, which is now merely a matter for preliminary consideration, having no bearing upon the question of settlement of the marriage. If there is no particular objection on the ground of *cool*, the demands of kulinism are considered satisfied. And this is the very least thing in modern match-making, although it was, when the shastras were more respected, the main and the most important point upon which marriage negotiations should rest. Now, the real inquiry turns upon the value in sovereigns of the bride's ornaments insisted on, that of presents to the bridegroom and the consols in addition, sounding from one to twenty thousand rupees in no exceptional cases, but varying according to the position of the bridegroom's father and his own attainments. Kulinism stands a poor chance in these days. Its claims are but meagre, and if it is relied on by any, that is but a pretence and a blind. Instances are not rare of kulins, of very high order marrying their daughters to men of much inferior rank, paying exorbitant sums in silver and gold to the discomfiture of the system altogether !

Here we have very clear evidence of the decline of that social compact which holds a community together in weal and peace. Those forces, the resultant effect of which produced uniformity in the practice of virtue and the discouragement of vice in Hindu society, lack the necessary strength, and dismemberment follows as a matter of course. What would the solar system indeed be, if the centrifugal force became less powerful ! What remains of Hindu society now, after it has cast off several groups, can hardly be held fast by reason of the destructive effect of the discordant elements of avidity and covetousness growing under the influence of modern education and the gradual introduction of the western mode of life.

XII.

THE HOME.

Two incidents create occasional commotion in Hindu society, and serious perplexity to its members. The marriage of a daughter ranks first for obvious reasons. The difficulty in the case is such as can not be got over by any attempt however herculean on the part of the father, there being considerations dependant scarcely upon his choice, but mainly upon the favour of the bridegroom's guardian; and although Providence's will is asserted very solemnly to rule the union, it appears as if in the calculations in the matter account is taken of that sacred name as instrumental in adding strength to the screw. *Prajapati's nirbandha*! what a phrase for avoiding the pressing solicitations in matrimony! The fatality suggested by it draws the parties into closer proximity to each other as the demands are approached slowly but surely with increasing figures. The sufferer therefore is helpless, he may be dilatory! We have already treated of this subject and therefore will refer at once to the next.

The odium of the exaction in the last case does not viciate the merits of the *śrāddha*, the next cere-

monial of importance alluded to above, yet we have at times read a different remark! It is the Brahmins who sometimes get abused by the other castes as they have to get a portion of the charity. Making voluntary gifts is the essence of the ceremony the specially sacred part of it being the offering of *pinda* to the manes of deceased ancestors. It has to be performed first at the death of a person by his son—this is the *adya sraddha*. Here comes in theology and with it faith. It is a principle inculcated and generally believed in by the Hindus, that the offering of pindas or balls of rice and butter, and fruits and sweets all mixed together, bring comfort to the departed ancestors, and the attendant ceremonies have the effect of rescuing them from the condition of a *prael* from the purgatory where the soul goes after its release from the human body.

The *Adya Sraddha* gives occasion for a re-union of relations specially agnates, and an assembly of friends and pundits who are honoured according to custom with presents and travelling expenses. The pundits generally meet on the day of the *Sraddha* in a *Sabha*, where the guests also have their places assigned, and converse on religious topics, thus giving opportunity to the younger *alumni* to show their knowledge and intelligence. Not unoften however offerings are made in part in silver plates, water-pots and other articles of domestic use, but this practice has been gradually degraded to a mockery of the

dan or gifts, as the things are made the lightest possible by the shrewdest smith, and are not given to the recipients as entire articles, but are cut up in small bits and are distributed—thus frustrating the real object of the gift as each article cut up into pieces ceases to serve the purpose for which the gift

The system is a very wide one, having within its scope very distant relations, but primarily those who are connected within the seventh degree. The *śradha* is necessary not only on the expiry of the period of mourning which varies according to the caste but yearly too, and during the year following the death once every month. We do not notice the other forms as they are not practised universally but only by some of the more devout.

That one that has to be performed at the end of a year of the death is as important, as the first one which is called the *Ādya Śradha*, it being the *Sapinda karana*, whereby the line of connection between the foregoing ancestors and the deceased and the living generation is maintained. So it is the family right through: rice is actually eaten indeed by the living members but it is formally offered by the performance of the *ekulīṣṭa* to the departed, who are supposed to eat once a year, and the son who in his turn is the father stands as the connecting link between the living and the dead. Whether the theory of benefit to the spirit is a correct one or not, it serves a very use-

ful purpose in continuing the charm of affection and regard for the departed ones, and no one who has ever performed a *śrāddha* with any attention can forget the exquisite pleasure he feels, when he piously and devoutly invites the spirit to come and partake of the offerings made by him as the son, grandson, or whatever relation he may be to it. Oh! the mother comes to the son to take her food from his hand! What on earth can be a greater blessing than this! And if tears are shed can there be a greater, a nobler luxury conceived by man! Whether therefore in any form whatever the food is subservient to alleviating the hunger imagined by us, or the water the thirst, let the fond idea live—poetic even if it be, as it ennobles the soul of the living man and induces him by expending a trifle to secure the enjoyment of bliss, not only for himself as the principal person, the centre, but partake of it with the other members of the family who surround him.

So great is the importance attached by the Hindu religion to the *Śrāddha* as it has to be performed on the occasion of each *Sanskara*, of pilgrimage, and of the introduction of new food into the house according to the nature of the produce newly raised at any period of the year; thus it goes into every detail of the arrangements for the home. This is indicative and is practical evidence of the great reverence felt, by the Hindus for their ancestors that are here no more, and their extreme solicitude to be able to confer

benefits on them. This desire of service is perceptible in every Hindu who has a father or mother by his side particularly when either is incapacitated by age or illness; and the man is considered a *pashanda*, the vilest of wretches who fails in his duties towards them.

The home is most significantly but naturally divided into two parts: the males who have to earn and provide the necessaries more or less like bullocks destined to carry sugar bags; and the females, who surround the president of the hearth and administratrix of the internal government, who is the lady of the house or *grihinee*, and upon whose tact depends the healthful management of the entire scheme. The position of the lady is supreme, and she must be respected by all; and in the treatment of her as a person deserving of esteem and consideration lies the germ of prosperity of the family.

“In whatever family the husband is contented with his wife, and the wife with her husband, in that house will fortune be assuredly permanent.”

Santashta bhārjya bhāria bhātrā bhāryā tatlayibā cha,
Yasminnoba kule nityam kalyānam tatra bay dhruvam.

(III. 60) Manu.

“From the wife alone proceed offspring, good household management solicitous attention most exquisite caresses, and that heavenly beatitude which he obtains for the manes of ancestors, and for the husband himself.

Apatyam dharmakāryāni aśusrusha ratirūtlama.
Darādheenastatha swargah pitreṇamatmanaschaha.

Manu IX.25.

In a properly constituted family her duties are various and divided into different sections, the first and foremost being the regulation of the daily worship. She distributes different portions of the work to different female members, prominent among whom are the widows if there are any, or the lady nearest to herself in rank, either the eldest daughter or the eldest daughter-in-law, or sister or any other person best fitted for the service. This branch of the duties of the home is we believe peculiar to the Hindus, and say what one will against the want of education in the modern sense amongst the Hindu females, supplies its place most satisfactorily, and in a more noble and spiritual way than a little learning in books possibly can.

Nor is the daily worship at home the only training of the ladies. When a girl is only able to speak and walk about, she begins her string of *bratas* and they do not end except with the *Sabitri*, which is the happiest consummation of the relations between the *karta* and the *grihinee*. *Atithishiksha* or reception of guests is an act of religious merit, and when any one specially of the priestly or mendicant class comes to the house, he is attended to with great ceremony, and food is supplied to him according to his needs and the means of the family. The entire family is astir, and everyone performs his part with zeal and gladness. This is considered of such importance as it is a rule in all families specially in the country, where such occasions often arise, that the

grihinee should take her meal last, and not before the time when an *atithi* is likely to come.

The lessons learnt by a girl in her father's home or after marriage in her father-in-law's abode, are essentially of a practical character. Morality and religion are the main doctrines of the household, and although it is to be regretted that the form of instruction that is now imparted to girls does not tend to improvement, yet we believe that if proper steps be taken much may be done towards ameliorating the system, by doing away with the present mode of teaching stories of cats and dogs, and with novels of stirring interest, and replacing them by moral lessons which alone with the usual supply of religious works, should reach the soft and pliable minds of the girls.

The widow is a much abused person, and people who do not know her real position in the family or who owing to their too progressive tendencies desire to upset old institutions, say a great many things against the class. Widowhood is most peculiar among the Hindus, and every enlightened foreigner shudders at the idea—the Hindu too shows the same feeling, why, his consternation is greater and commensurate with the interest he has in the poor creature. When a girl becomes a widow a gloom is cast upon the entire family, its happiness is lost, all its festivities are stopped, and necessary enjoyments postponed to better times. Those who decry widow-hood generally do so on the ground of

supposed ill-treatment. The cause may be served better by attacking the system itself, and endeavouring to get widows married, and finding husbands for them. There is great difficulty in achieving the last object; because should there be an otherwise eligible bride-groom, he may not be of the proper caste, and no father would desire to lower himself by a connection that would plant a thorn as it were on his side and torment him, and will be a continuous trouble from generation to generation. The proper line of action should for the present be to find suitable bridegrooms for widows who have not attained puberty, whereby the real difficulty would be bridged over. Those gentlemen who by their irresponsible speeches shew so much interest in the matter ought to put their heads together to conceive of a practical method of popularising widow marriage. Mere talk for ages would not improve the condition of the poor girl widows.

We have elsewhere referred to what the social position of the widow is, and therefore need not say more upon it here. But let a word be said as regards the treatment she is alleged to receive. By virtue of the religion she obeys she cannot when sufficiently grown up take fish or meat, but she gets abundant butter instead, and the rice she eats is good—the table rice of the European. When sufficiently grown up she does not use ornaments, but these remain her property, and no one on earth can interfere with them.

Luxuries are avoided, and for the purposes of the system very rightly, as there ought to be nothing used by her that would in the smallest degree give rise to desires for enjoyment, which to her is conducive of evil. Her main duties in the home are those of the worship. She arranges the details daily, if a Brahminee she prepares and cooks the offerings for the family idols, and sees that all goes on well and according to the prescribed rules. This gives her pleasant work that engages her well here and would come into good account hereafter. Pilgrimage and occasional celebrations of the worship of the household gods, and also of other images, such as Durga, Kali Jugaddhatri &c. &c., occupy her in a manner that certainly cannot be called cruel, but which is on the other hand the proper mode of occupying her mind — she who can not marry again, and if childless has from a worldly point of view an objectless existence to lead. Those that do not care for religion, who do not care for the chastity of the widow, who place nothing on the dignity of the family she belongs to—her father's, and her father-in-law's—may say anything inconsiderate they choose : but those who are sedate and desire to find out what the real facts are, and propose something good for the system, ought seriously to reflect and then utter an opinion.

The family priest requires a passing notice. There is no Hindu family which has not got its

appointed or hereditary priest. The priest is either a *Purahit* or a *Guru*, generally both classes come under that name. The *Purahit* is a person of the sacerdotal class, who performs the worship of the idols of the family, officiates at *sraddhas* and *bratas* and all religious rites, and is remunerated with presents and *dakshina* which is a small amount in cash varying according to the nature of the work performed and the means of the *yajman*. Probably the most ill-paid man in Hindu Society is the priest, hardly excepting those of certain castes, whose emoluments are better, and whose number is limited by reason of those of other castes being precluded by hard rules from helping at their ceremonials.

The *Guru* is higher in rank than the *purahit*. He is the spiritual preceptor and lays down all rules of practice and procedure in the performance of the religious duties of the family. The office is invariably hereditary, and exception is found only in cases where for any very strong and sufficient reason the head of the family accepts another *guru*, or there is no male descendant worthy of the office. The *Guru* is recognized in the *shastras* as the person who will teach the *mantra*, the mystic words that have to be repeated morning and evening, and which distinguish the particular sect to which one belongs, *viz.*, the *Saiva*, *Sakta*, *Ganapatya*, *Baishnava* etc. It is however a moot question

whether a Brahmin, who has received the *gayatri* which is the vedic mantra, need be initiated into any particular class, as he has the right to study all *Shastras*, and remain a member of the universal Hindu creed and following.

Charity is the soul of the domestic system. *Dan* is a name for all forms of gifts, and from morning to eve, it is not denied where means permit, and in consequence the poor followers of Baishavism have formed a regular sect depending for their livelihood upon charity in the form of offerings of rice and small bits of copper, and not unoften a beggar woman is found to have left a *betudy* full of rupees to be taken possession of by whomsoever conveniently can! The beggars proudly beg and demand as of right so to say, because they know in their minds that no Hindu dare say no when he can afford to spare any small coin or anything equivalent to it. Besides those referred to above there are organised bodies that live by begging, or upon gifts spontaneously made. They are able-bodied men who do no work, but some of them are supposed to have a little and others deep knowledge of the shastras, and are men who are more regarded by the Hindus than they are or probably can be by any other people.

Hindu charity is free and unorganized. It is considered the best in its method as it sets no limits nor lays down a procedure. Sympathy alone is not the moving cause, but bliss hereafter is the ruling one;

hence charity is personal as a rule, and subscriptions the exception. The Hindu mind does not really appreciate a combined act of charity, but where such instances are observable, they are evidence of the importation of new ideas of organisation gradually being imported from the western modes of civilization. Hospitality like charity is a special feature of the Hindu home. The open door system is perhaps inexplicable to the western mind.

XIII.

BUDDHISTIC SCHISM.

Business and the troubles of a poor Hindu home seldom leave time and energy to be utilized for original research. Therefore the Gospel of Buddha has been found to be useful in imparting some notion of the nature of the teachings of the celebrated reformer believed by his followers to be the Tathagata himself, and known by the world by the name of Buddha or Sakyamuni. A Rajah's son, he gave up the pleasures scrupulously arranged for him by his father in the best style imaginable, directed to the one purpose of making him happy and forgetful of the world outside the palace and its lovely gardens with bewitching concomitants; withdrew from the embrace of his devoted wife, a creature of heavenly beauty, unsurpassed by any lady on earth in her affections and devotion to her lord; went forth into the streets of the city, and sent away even his solitary companion and his horse, and bare-footed began to tread the hard pebbles over unknown ways uncovered with his royal robes, and with only

a few cast-away rags for his garment. The change—what a change! from a prince to a begging hermit, and for what?—the benefit of mankind!—was so great as to be inconceivable, incredible to the men of the world. Not like a felon running on pathless tracts high and low to avoid the punishments of the law, nor like a lover broken-hearted at the treachery of his spouse, did Siddharta the prince disappear among the wilds; but he sped his way to where the Hindu *rishis*, *munis* or *yogis* taught the principles of Hindu philosophy and religion, and received lessons which enlightened and invigorated his intellect.

A powerful mind of original tendencies does not always bow down before established authority. It thinks for itself, and if bold gives expression to doubts and contentions, and forcibly attacks the theories which it does not accept. Buddha did not therefore shrink before those that maintained the orthodox doctrines of Hinduism, and raised a discussion as to the inadvisability of torturing one's own body for preparing the mind for a state of utter inattention to outward affections, physical or otherwise. Here the divergence began, and he went on preaching his own ideas. It may perhaps seem rather absurd that one who has withdrawn himself from the ecstasy of earthly happiness, and who by following the life of a *Bhikshu* presented in himself an instance of extreme self-abnegation, should tell the *yogis* that their ways of torturing the body were unnecessary. Yet there

is in this the recognition of an important principle that regulates society in the same way as the flowing blood preserves the warmth of life. The body of man requires to be maintained in health to be subservient to the free and vigorous exercise of the mind; and as physical wants and necessities must be supplied to keep it in order, to impose restrictions of a stringent character would be to abuse the system and render it unworkable. It is no wonder therefore that if on the one hand the yogis are but a few the bhikhus on the other vastly out-number them.

But yogis or bhikhus, neither class could populate a world; the average man would require to be guided by ordinary and bearable rules. If therefore severe bodily inflictions should be avoided for the peace of the individual mind, these should be avoided also for the sake of the physical needs of mankind. From an extremist point of view the yogis, who find a defence in the practices of the monks and of the clergy in Europe of the past ages may be right; yet the Bhikhus are not wrong from a consideration of the physical wants of man. But what does Buddha propose for the maintenance of society? The same universal rules of morality that have governed men at all times received recognition by him and were appropriated for his own purposes—cruelty in special being discouraged and self-immolation. Cruelty in all its forms has always been declaimed against by all moralists, particularly by the Hindus; so in this matter Buddha only fol-

lowed, perhaps with strictness, the dictates of the old Shastras. His teachings upon the subject of slaughter even in the name of religion or necessity, were bold, and have done immense good indeed; and no Hindu is sorry, unless perhaps the man who does not wish to be guided by any principles save the dictates of his rampant will, and the cravings of habitual and uncontrolled passion.

Where Buddha differs from the Hindu primarily is the question of caste. It is a system which does not seem to prevail, in the sense it does in India, in any other country, civilized or barbarous, and had its origin among the first settlers of this country of fabulous learning and mysterious systems. However-strict the rules of caste might have been, and however-much prohibition might exist against common social practices and intercourse between different sections of the community, never in the annals of the tribes do we find any impracticability for the formation and partial assimilation of a new section, not being any of those originally started. Even in very modern times we find the sect of Boishnavas extending its influence nearly all over India, the agitation springing at a time most unfavourable for the progress of any Hindu movement, particularly religious. Even the Brahmos are a branch of the old stem. The Boishnavas became embraced among the Hindus, and being connected with them by intimate affinity have been recognised as a sect by reason of their follow-

ing the general principles and usages of Hinduism. All Boishnavas eat together in one *pantry*, all allowable food, and although they are treated as a class of Soodras generally, one point of importance in the matter is that notwithstanding their manner of recruiting, they are permitted to serve water and all other things like Soodras of the higher classes to the Brahmins.

So even on account of non-observance of caste rules, the Buddhas did not materially differ from the Hindus—indeed at one time they were considered as a sect only, and Buddha Deb was admitted as an *avatar* into the Hindu pantheon. But modern Buddhas since and from about the time of their expulsion from India, having addicted themselves to food not allowed by the Shastras and renounced idolatry in the Hindu form, have severed themselves from the common stock. The gentlemen of the Brahmo persuasion are following on the path of Buddhism, and there is every likelihood of Hindu society losing them, unless in their food they continue to be Hindus; or unless, which seems a more likely contingency, Hindus get addicted to forbidden food all over the land, and yet be Hindus! Their manner of worship does not matter much, as they maintain the philosophical principles of the Hindu religion as Buddhism does, notwithstanding that it inculcates and preaches *nirvan*.

Mystification has been the ruling idea in all

systems of religion, as devotion and devotedness follow in its wake. Miracles have therefore been presented to the human mind as of necessity requiring unhesitating submission, although in regard to Buddhism, let it be said to its glory, that the Tathagata never countenanced the idea of subduing the minds of his disciples by means of supernatural pretensions for apparently inexplicable physical events. When after his conversion to Buddha's faith, Kashyapa stretched out his hand and brought down a bowl from the top of Jyotiskha's pole, and the people proclaimed "Great is the Tathagata. His disciples perform miracles," Buddha went to Kashyapa, and breaking the bowl to pieces, forbade his disciples to perform miracles of any kind. And again on another occasion he expressed himself more strongly thus, "an ordained disciple must not boast of any superhuman perfection. The disciple who with evil intent and from covetousness boasts of a superhuman perfection be it celestial visions or miracles, is no longer a disciple of the Sakyamuni." But whether Buddha did work miracles or not, the fact of his not having encouraged their performance by his disciples does not detract from the merit of his theological system. The conquest of the dragon is but a myth, an allegory at best; yet the propagation of a religion and its spread over a great portion of the globe unsupported by miracles, is it-self a miracle of the highest moral value.

Born in orthodoxy and imbued in the philosophies of Hinduism, Buddha's mind expanded as does the lotus in sunbeam, and developed its colours and brilliancy with the advance of the day. The great mind did not stop in its progress, but proceeding in its departures gave a special feature to his religion. It became proselytising and led to its own fall in India. The parasite became so overgrown, and changed its character so very much, that the main body could not sustain it any longer and cast it off. But it crept on and thrived in separation in non-Hindu countries where people of different shades of religious belief adopted it. Prince Shiddhartha became a Buddha, he was not as is commonly supposed the originator of his religion; he was an apostle, a preacher and reformer, inspired or not we need not discuss; and he had been preceded by other Buddhas, as—not to cite Shastric proof, the following quotation will show:—

"The Naga Kings earnestly desiring to show their reverence for the most excellent law, as they had paid honor to former Buddhas now went to meet Bodhisatwa."

The peculiarly Hindu character of Buddhism is evidenced in its teachings regarding transmigration. Soul or no soul, the mind is supposed to go from one existence to another a great many times till moving on and on it reaches the final goal of happy *nirvana*. The war is against self or the ego. Bodhisatwa found no satisfaction in the Hindu teachings that the "I" is

the soul, and that deep speculation will easily involve the mind, and lead to confusion and unbelief, but that a purification of the soul leads to the way of escape; and he said "people are in bondage, because, they have not yet removed the idea of "I." He argues that the thing and its quality are different in our thought, but not in reality; witness heat and fire, the one is different in thought from the other, but you cannot remove the one from the other in reality; you cannot remove the qualities and leave the thing without them.

Buddha explains himself more fully thus: -

"Is not man an organism of many aggregates? Do we not consist of various skandhas as our sages call them? Man consists of the material form, of sensation, of thought, of dispositions and lastly of understanding. That which men call the ego when they say 'I am,' is not an entity behind the skandhas; it originates by the co-operation of the skandhas. There is mind, there is sensation and thought, and there is truth; and truth is mind when it walks in the path of righteousness. But there is no separate ego soul outside or behind the thought of man."

This is identifying the mind with the soul. In certain European systems of psychology there is trace of this doctrine, although no one can possibly suggest that Buddha received his inspiration from the west. But original though this may seem, although not so to the atheistic school of Hindu philosophy, the accuracy of the theory is open to grave doubts, Thoughts are

various, and even if we take them to be the attributes which cannot be separated but form one whole, still the ego seems to be the substratum, as fire of heat. Otherwise the identity so strong in its own conception cannot be explained. But there need be no discussion about words; if thoughts make up all the man, the existence in them is continuous both here and hereafter for so says Buddha himself:—

“I see that the transmission of soul is subject to the law of cause and effect, for the fates of men are of their own making. But I see no transmigration of the *I*.”

Transmission or transmigration is the question raised: but deeply thought out the difference is nil. Continuity is not denied. Therefore, the soul whether it be the ego or not continually exists, and let us hear what Buddha further says:—

“Those who used the same sense-organs, and thought the same ideas before I was composed into this individuality of mine are my previous existences: they are my ancestors as much as *I* of yesterday am the father of *I* of to-day, and the *karma* of my past deeds conditions the fate of my present existence.”

If, therefore, the present is the effect of the past existence, the present individuality, it matters not by what mysterious cause, follows upon and is the sequel to the past, and will be the cause of the future. So the continuity of the individuality is established beyond all Buddhistic contention; and, therefore, the

soul becomes identical with the ego. The only reason, that may be conceived for admitting the important conditions of the soul and at the same time of denying its independence, seems to lie in the fear that upon the admission of the theory about the ego, theological consequences will have to be admitted as attaching to the soul, that may have their origin in some supposed agency or cause apart from the actions themselves—the fear viz., of upsetting the doctrine of *karma*, which Buddha admits to be a true and correct one, and which although received by him from the Hindu *Rishis* with great submission and dignity, is the basis of his theory of the perfection and end of the soul. It does not, however, appear that the admission of the independent and active ego would necessarily militate against his other opinions. If the soul suffers all the conditions of one existence as following from the past as effect from a cause, the character of the ego would not require that conditions different from what may thus flow, would necessarily be imposed by the direction or ordination of such a distinct agency as the divinity. The soul may progress in the path of right from perfection to perfection, and yet not be directly guided or controlled by any superior power. Those that believe in providence themselves admit that inasmuch as the prevision of the Almighty is concealed from men, they are responsible for their own actions and will be liable for their consequences, which, however, are different according

to different schools or systems of religious belief. Upon his own teachings therefore, there is agreement between him and other philosophers upon the nature of what he calls the soul, and ~~that~~ the soul or the ego.

It is by no means certain that Buddha knew about the discussions of the Greek or earlier philosophers, or of the future rewards and punishments of the Christian faith, but that he was combating with the Hindu texts and religious beliefs is clear. There is in the shastras description of the hells or abodes of the sinners that surpasses the Miltonic representations of the place of the fallen, and of *swarga* or Paradise of the virtuous, but Bodhisatwa eschewed both. He would not have the soul pass into regions like these for evil or for good, but would preach that the soul would pass on from one state to another, and exist and flourish according to the merits of the *karma* of the existence before. No like the flame that burns and burns, and takes its brilliance and color from the conditions in which it burns, and would at last lose those conditions upon approaching some vast light in nature like itself, and lose itself in its substance; or like the rain-drop that lies concealed in vegetables on the ground and rises unseen as vapour in the air, and at the end falls upon the surface of some extensive lake, melts away and disappears in its aqueous mass, the soul would after its perigrinations eventually merge into illimitable *nirvana*.

Mukti is the blissful state which Hinduism pre-

sents to the believer in God-head, of the soul being drawn to Him, and living in Him eternally without the chance again of coming into any form of existence. Buddha contemplated, and fearing that this would be inseparable from idolatry or pantheism, promulgated his thesis of the soul as advancing in purity by particular conduct in its repeated existences, and of attaining to perfection by a total surrender of self. Nirvana so far as it can be understood is *mukti* without God, for about Him says Buddha, "who is it that shapes our lives? Is it Iswara or a personal creator? If Iswara be the maker, all living things should have silently to submit to their maker's power: They would be like vessels formed by potter's hand, and if it were so, how would it be possible to practise virtue? If the world had been made by Iswara there would be no such thing as sorrow or calamity, or sin, for both pure and impure deeds must come from him. If not, there would be another cause beside him, and he would not be the self-existent one. Thus, you see the thought of Iswara is overthrown."

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He adds! "Let us then surrender the heresies of worshipping Iswara and praying to him, let us not lose ourselves in vain speculations of profitless subtleties; let us surrender self and selfishness, and as all things are fixed by causation, let us practise good so that good may result from our actions."

Any one seriously thinking on the subject so

tensely put, cannot but find himself in a new position. The teachings of modern methods have produced a desire in the minds of students to find out an efficient cause for things working by direct causes; but what we meet with here is expostulation that bids us have nothing to do with chimerical ways of arguing, and of assuming things not evident, and which cannot be proved *a priori*. We cannot say whether it is our heart that repels the acceptance of the doctrine, or, the long practice in prejudice in which we have lived and thought. But yet we should endeavour by repressing our heart, and suppressing prejudice, to find out in what way we can justify conclusions like the above. That all our recognition of the material world is by thoughts—sensations and perceptions—and that these again lead to thoughts which are peculiarly human and which are not connected with matter, show that the real man is composed of thoughts, and if we say with the idealist that matter exists in our thoughts only, perhaps that would be only a parody of the fact that we know it by our thoughts. And we have already said that continuity of individuality indicates identity—although we may add that, however much changes may work to alter its character, it will always and mainly be the same; and further that the changes themselves are evidence of its independence and integrity,—and that the identity establishes the truth that thoughts are not all the existence of the soul, but that the soul is being which the thoughts attach themselves to, and

act upon. But neither the soul of man nor the soul of the universe has any place in the calculations for the final beatitude of the *nirvana*. The same old argument against the all knowing power of the divinity that has confounded atheists, is a stumbling block to the preachers of bliss without God and soul. If man is responsible for his actions, that is to say, if actions will produce their effects all through different existences, how can an infinite foreknowledge of the same be admitted? The argument then is this that either the one or the other must be true. But happily that is not so, and both are true and in a most majestic way. Philosophy, condensed into a sentence only of verse by a mighty author, exposes the fallacy and proves the truth in words supposed to be proceeding from the Lord in conclave in heaven :

————— if I foreknew, foreknowledge had no influence on their fault, which no less proved certain unforeknown.

So, here is not only assertion of foreknowledge but an explanation why notwithstanding it, man is a responsible agent. We, of course, do not agree with Milton all through, nor do we assert the correctness of the Christian doctrine regarding the future of man but we quite admit the importance of what is said to show that God might foreknow, and yet man would be responsible for his acts by reason of his not knowing what the foreknowledge is : God's foreknowledge is a sealed book, and has been kept closed to man. Man,

therefore, may act, and always without any concern with theologians.

The actions will produce their legitimate effects, which will be according to the causes only, and not according to anything else. But it is when we come to consider what effects are expected from what causes, we find awful divergencies in the sacred books and beliefs of the nations—and all the stages from eternal bliss to eternal woe are traversed. But we need not stop to enquire about the details of this subject; let us proceed to see if actions will bring on their moral consequences in their train, and if man has to act without any idea of what he has been destined to do, and whether it matters anything if there be a presiding divinity or not. Why, asks Charbak the atheist, should man be hampered with a responsibility that does not concern his actions at all? A man believing in God may be as virtuous as a godless man; so, says Buddha, "let us practise good so that good may result from our actions." The doctrine is good so far as it goes, but it does not seem that it is sufficient for all humanity. It appeals itself to the intellect only, but leaves the heart disconsolate. It leaves the mind too in a state of uncertainty, and so it seems that meditations, hopeless thoughts! which are mistaken by theists for prayer, become necessary and are practised.

This is, however, the fair side of the picture.

Good produces good, very good indeed; but evil produces evil, and what is the dispensation regarding evil-doers? Let them practise good is the answer, but why will they? What is there in good that will tempt them? The nature of the evil that will proceed from evil may be dissuading force, only if the future is so well arranged as a system, and with so dreadful concomitants, as to impress with awe and fear ignorant minds that require harsh treatment as a check against continuous evil doing. But Buddhism does not propose this, and relies upon the course of the current, so to say, and casts the soul adrift upon the fighting billows to find its haven as best it may. But is not the thought of God existing and watching a helpful idea? Is it not even like the straw that the drowning man may catch, and in the exertion find relief and strength to batter the waves, till he reaches some favourable current that may waft him on to the far-off land? Even if a delusion, it is not a snare! But is it a delusion? Cannot the Buddhist rightly say that it is superstition, and of the highest order, topping the category of all crude notions and sentiments? The idea originated with the savage, whose fear created a being above nature to account for prodigious exceptions: the wild fire and the lightning, the eclipses of the sun and the moon, the roar and tumult of the deep, and the deafening thunder of the clouds.—these and the like were attributed by the primitive mind to agencies superior to themselves and undiscerned by human

eye, some regarding each as the act of an individual deity, and others referring all the phenomena to the activity of an all powerful sentient entity. And, says the Buddhist, there seems to be reason in this for looking beyond the manifestations themselves and their physical causes which science only should determine. Add to this, he says, the general bent of the human mind to stoop down before and adore every man in power, who has the ability of commanding hosts and conquering all. Submission to authority self-asserted or constituted has produced such a bias against independent thinking on a priori grounds that the mind in its lassitude wishes to recline upon anything likely to give relief to anxious thought : so the subject looks up to the monarch, all men to whomsoever is superior. This habit has produced such an abnormal obedience to despotic authority that men promptly yield their judgment and admit causes which are not apparent but which they imagine, could lend protection to them. The result is that from one to another physical or evident cause they wander about and eventually come to discover a power which they take to be the efficient cause of all and whom in their weary and confusion they worship in different forms and ways. The mind arguing in prescribed circles and moving in definite grooves, finds itself released when it gets a way out, and the temper becomes very different: witness the thoughts of those that live as an independent nation under a representative government.

How different are they from those that have a king of their own, a king to whom they bow in fealty, whose hand they kiss and whose throne they touch with overwhelming feelings of allegiance and devotion. The thoughts of the latter are akin to those of the Godfearing, whereas those of the former indicate the state of mind of the freethinker of the Buddhist School.

Thoughts, indeed, are what we know, but are they all that be? We see or hear or feel one thing and another and yet a third, things innumerable, but our senses are unchanged. We also see fear or feel variations of the same things, and our senses are unchanged. How do these various ideas arise? Surely not from the senses, but evidently from the things themselves and such physical influences as they are under. They therefore are different from the thoughts which result from a number of material causes; and if these lead to other thoughts not produced by the outside world, the latter again clearly point to their independence and to some power able to retain them. To deny the material world is to deny our own existence; it is sheer idealism to do this. We must believe in the evidence of our senses, and also in our internal self-consciousness. The very law of causation requires this. Matter and soul act in harmony, and soul has mastery over matter: When we work on matter causation points to two things, the direct physical cause, and the really acting mind; so it needs no genius to demonstrate that spirit works on matter. The

actions of man, however, are limited to the workings of the material laws, the establishment of which, but not their discovery, is beyond their power. Creation is denied to man; he may play on with what baubles he finds! When we launch into the question of the arrangement of the universe the infinite law and its manifestations, we lose ourselves in the infinite. What is the spirit that governs infinite matter and what is that that has created it? Oh! we cannot answer; we believe! We argue thus from what we see and know, but the universe that exists may have far different conditions from ours, each one leading to infinite expansions; yet all are working in harmony, and man may without being the diapason in which all the laws close, be but the slightest unit in the infinite variations. The spirit such as we conceive it to be by its manifestations may be but one form of an infinite series. So long, therefore, as we must believe in our existence even in ideas only, it is possible and untrue to say that other beings do not exist superior to us and infinitely so, all through this dark and bright creation. Arguing from one ascertained fact to another Buddha found that the admission of 'self' would by causation lead to the admission of the Divinity, so he was irresistibly led to affirm the non-existence of matter and of self, and thus inevitably to a frustration of his main theory.

THE END,

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